

**CALIFORNIA COASTAL COMMISSION**

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Substantial Hearing	
Date (Appeal):	8/6/02
Staff:	AJP-LB
Staff Report:	5/17/04
Hearing Date:	6/9-11/04

**TH 8 a & b**

**STAFF REPORT:**  
**DENOVO & REGULAR CALENDAR**

**LOCAL GOVERNMENT:** City of Los Angeles

**LOCAL DECISION:** Approval with Conditions

**APPLICATION NUMBER:** A-5-PPL-02-162/5-02-099

**APPLICANT:** Bel Air Bay Club, Ltd.

**PROJECT LOCATION:** 16800 Pacific Coast Highway, Pacific Palisades,  
City/County of Los Angeles

**PROJECT DESCRIPTION FOR A-5-PPL-02-162/ 5-02-099:** Demolition of 30,701 square feet of the existing 51,120 square foot lower Bel Air Bay Club Facility, construction of 40,709 square feet resulting in a 61,128 square foot Club facility, realignment of an existing sea wall and sandwall, and a realignment of the PCH/Bay Club Drive interchange; addition of 22 on-site parking spaces; and offer to dedicate an access easement for pedestrian and bicycle use.

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**Summary of Staff Recommendation**

The major issues of this staff report include construction of private development and a seawall on a beach that are seaward of the present structure and seawall, public access to the beach, views, hazards, and water quality. Staff recommends **APPROVAL** of the proposed development with 14 special conditions that require: 1) a limitation on construction of the structures and seawalls seaward of the presently existing structures; 2), an agreement to construct no future shoreline protective devices except those approved in this permit; 3) an assumption of the risks of development on both private and public property; 4) evidence that the Club bylaws forbid discrimination; 5) that the applicant assure and facilitate public access over the publicly owned beach and along the water on its own property during storm tides; 6) the implementation of water quality Best Management Practices during and after construction; 7) a parking management plan; 8) removal of obstructions to visual and physical access on public property; 9) clearing a fence and trimming a hedge to improve views over the property; 10) recording an offer of an easement that would allow widening the shoulder of Pacific Coast Highway at the northeast corner of the property to provide for a bike lane; 11) operating a lifeguard service

and maintain the public beach seaward of its property as required in the Title Settlement with the State Lands Commission; 12) agree that future development and intensification on the property will require a coastal development permit and; 13) record a deed restriction against the property that incorporates these conditions.

**SUBSTANTIVE FILE DOCUMENTS:**

1. City of Los Angeles Local Coastal Development Permit No. 2000-0648 (CDP)
2. City of Los Angeles Planning Department, Administrative Record for 2000-0648 (CDP)
3. Coastal Development Permit Application 5-02-099 (Bel Air Bay Club)
4. Coastal Development Permit No. 5-92-108 (Bel Air Bay Club) as amended
5. Coastal Development Permit 5-85-76, 5-89-627 (Jonathan Club)
6. Coastal Development Permit 5-84-150 (Bel Air Bay Club)
7. Bel-Air Bay Club Title Settlement and Boundary Line agreement BLA 272 /AD455 dated October 20, 2003

**Staff Note:**

The proposed development is within the coastal zone of the City of Los Angeles. Section 30600(b) of the Coastal Act allows local government to assume permit authority prior to certification of a local coastal program. Under that section, the local government must agree to issue all permits within its jurisdiction. In 1978, the City of Los Angeles chose to issue its own coastal development permits.

Within the areas specified in Section 30601, which is known in the City of Los Angeles permit program as the "Dual Permit Jurisdiction" area, the Coastal Act requires that the development which receives a local development permit also obtain a permit from the Coastal Commission. Section 30601 requires a second coastal development permit from the Commission on all lands located (1) between the sea and the first public road, (2) within 300 feet of the inland extent of a beach, or the sea where there is no beach, (3) on tidelands or submerged lands, (4) on lands located within 100 feet of a wetland or stream, or (5) on lands located within 300 feet of the top of the seaward face of a coastal bluff, or (6) any development which constitutes a major public works project.

The proposed improvements are located between the sea and the first public road. Therefore, the proposed project is a dual permit jurisdiction project. For development within or considered as dual jurisdiction, after the local government approves a permit, a second permit is required from the Commission under the requirements of section 30601, in addition to the Commission's action on this appeal.

The City's approval of the local coastal development permit for the single permit area was appealed to the Commission (A-5-PPL-02-162) by the Executive Director of the California Coastal Commission; Martin J. Murphy; Harold Tuchyner and Robert Locker, representing Pacific Palisades Residents Association. At the August 2002 Commission hearing, the Commission found that the appeal raised a substantial issue with respect to impacts to coastal

access and recreation, scenic public views, character of the surrounding area and potential impacts of developing in an area subject to flooding and erosion from wave impact and storm events and the effects of a seaward encroachment of a new seawall on sand processes and beach erosion. Because the project was in the dual permit jurisdiction area and required a second Coastal Development Permit from the Commission, the hearing on the De Novo portion was postponed until the dual permit application was complete with all requested information, including State Lands Commission approval of the new 2003 Boundary Line Agreement.

Since the substantial issue hearing, and pursuant to numerous meetings with Commission staff, the applicant modified the project from the one approved by the City of Los Angeles. Changes to the proposed development included reduction in the size of the footprint, massing, height and square footage, and a relocation of the proposed seawall alignment locating it no further seaward than the most seaward extent of the existing seawall.

In order to minimize duplication and unnecessary delays, Commission staff has herein combined its analysis for the De Novo review of the permit appealed (A-5-PPL-02-162) and for the Commission's review of the dual permit jurisdiction coastal development permit application (5-02-099) into one staff report and one Commission hearing. However, Commission approval, modifications, or disapproval of this project will require separate actions on the appeal (De Novo) and on the coastal development permit.

**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. A-5-PPL-02-162:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. A-5-PPL-02-162 pursuant to the staff recommendation*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California

Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

**II. MOTION, STAFF RECOMMENDATION AND RESOLUTION FOR COASTAL DEVELOPMENT PERMIT NO. 5-02-099:**

Staff recommends that the Commission make the following motion and adopt the following resolution:

**MOTION:**     *I move that the Commission approve Coastal Development Permit No. 5--02-099 pursuant to the staff recommendation*

**STAFF RECOMMENDATION:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION**

The Commission hereby approves a permit, subject to the conditions below, for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of Chapter 3 of the California Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/ or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternative that would substantially lessen any significant adverse impacts of the development on the environment.

**III. STANDARD CONDITIONS:**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**IV. SPECIAL CONDITIONS FOR COASTAL DEVELOPMENT PERMIT NO. A-5-PPL-02-162 and 5-02-099**

**1. NO SEAWARD ENCROACHMENT OF SEAWALL/SANDWALL**

- A.** The applicant is not authorized to move or reconstruct any portion of the seawall or sand wall seaward of its present location. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director revised plans showing that there is no seaward encroachment of any portion of the vertical seawall or sand wall beyond the location of the existing walls, identified in Exhibit no. 3. Pursuant to this condition, the applicant shall either:

- a. Leave the present seawall and garden wall in their current alignments, or
- b. If the seawall is replaced, the replacement must be located in the existing alignment and location, or
- c. The applicant may extend the landward most portion of the seawall in a straight line roughly parallel to mean high tide to meet and to be contiguous with the garden wall, to eliminate the existing 90 degree angle in the current alignment; however, the new seawall may not be located further seaward of the most landward portion of the existing seawall (Exhibit no. 3)

**B.** All proposed new and reconstructed structures shall be located landward of the seawall and garden walls as approved by this permit.

**C.** The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**2. NO FUTURE SHORELINE PROTECTIVE DEVICE**

**A.** By acceptance of this Permit, the applicant agrees, on behalf of itself and all successors and assigns, that no shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A5-PPL-02-162 and 5-02-099 in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future. By acceptance of this Permit, the applicant hereby waives, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

**B.** By acceptance of this Permit, the applicant further agrees, on behalf of itself and all successors and assigns, that they shall remove the development authorized by this Permit if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall onto the beach before they are removed, the applicant shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

**3. ASSUMPTION OF RISK, WAIVER OF LIABILITY AND INDEMNITY**

**A.** By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from waves, storm waves, flooding, landslide, erosion, or earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

**4. NON-DISCRIMINATORY MEMBERSHIP POLICY**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall (1) submit, for the review and approval of the Executive Director, a statement, to be incorporated into the Bel Air Bay Club's By-laws, that states that the Bel Air Bay Club will not discriminate in its membership practices on the basis of race, gender, religion, or sexual orientation and then (2) incorporate the approved statement into those By-laws. The non-discrimination policy shall remain in effect during the life of the development approved by this permit.

## 5. **PUBLIC SHORELINE ACCESS**

**A.** Prior to issuance of the coastal development permit the applicant shall submit the following plans/ agreement for a comprehensive public access program for the review and approval of the Executive Director that includes the provisions below. The program shall incorporate the access provisions of the Bel-Air Bay Club Title Settlement and Boundary Line agreement BLA 272 /AD455 dated October 2003 and of coastal development permit no. 5-92-108, as amended, including but not limited to the following:

- (1) The applicant shall not interfere with public access and recreational use within the area identified for a maintenance lease under the Bel-Air Bay Club Title Settlement and Boundary Line agreement BLA 272 /AD455 dated October 20, 2003, as generally depicted in Exhibit no.16. The applicant shall submit a written agreement indicating that it and its employees shall not interfere with public access or recreation within the maintenance lease area, or with the public's right to pass and repass on the wet sand when the public beach is inundated, or, when the sand berm is present, inland of the sand berm permitted pursuant to CDP No. 5-92-102, and any subsequent amendment to that permit.

- (2) **Signage.**

- (a) **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a signage plan showing the size, wording and location of signs. The size of the signs shall be at a minimum 24" in height and 18" in length.

- (i) Permanent signs shall be located in conspicuous locations at the east and west ends of the property and at least every 250 feet along the applicant's southern property line along the beach, informing the public of the location of the public beach.
    - (ii) Temporary signs of similar dimensions and location shall inform the public of its rights granted under this permit and CDP No. 5-92-102 for lateral access across the applicant's sandy beach property when the applicant has constructed a temporary sand berm.

- (3) **No storage or placing equipment on the beach**

With the exception of a lifeguard tower and lifesaving equipment, the applicant shall not store or place objects, including but not limited to chairs, benches or recreation equipment on the public beach or on the area subject to the maintenance lease.

B. The permittee shall undertake the development in accordance with the approved plans and agreements. Any proposed changes to the approved plans or agreements shall be reported to the Executive Director. No changes to the plans or agreements shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**6. ACCESS IMPROVEMENT THROUGH OR OVER THE WESTERLY GROIN**

A. Prior to issuance of the permit the applicant shall submit for the review and approval of the Executive Director final engineered plans and a signed agreement for creation of a passage through or over the groin located on and adjacent to the westerly boundary of its property. The City and County of Los Angeles and the California State Lands Commission shall have approved the plans in advance of their submittal. The plans shall show the construction of a pedestrian passage through or over the groin located adjacent to the westerly boundary of the applicant's property. The agreement shall establish the applicants' right to construct such a passage.

Prior to occupancy of any structure approved in this permit, the applicant shall complete construction of such passage consistent with the approved plans and remove the approximately 8 to 10 foot portion of the vertical wall, that is adjacent to the groin and encroaches onto State lands.

B. The permittee shall undertake the development in accordance with the approved plans and agreements. Any proposed changes to the approved plans or agreements shall be reported to the Executive Director. No changes to the plans or agreements shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**7. STORAGE OF CONSTRUCTION MATERIALS, MECHANIZED EQUIPMENT AND REMOVAL OF CONSTRUCTION DEBRIS**

A. Prior to issuance of the coastal development permit, the permittee shall provide detailed plans and a list of measures to assure that during demolition and construction the project shall comply with the following construction-related requirements:

1. As part of the initial plans, the applicant shall assess the presence of toxic materials (lead, asbestos, asphalt, etc.) and provide a plan for controlling these substances. The applicant shall follow that plan and shall provide adequate disposal facilities for solid waste and toxic materials, including excess asphalt, produced during demolition or construction.
2. Best Management Practices (BMPs) designed to prevent spillage and/or runoff of construction related materials, sediment or contaminants



associated with construction activity, shall be implemented prior to the onset of such activity. Selected BMPs shall be maintained in a functional condition throughout the duration of the project.

3. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to the ocean and beach during construction and consistent with that requirement, the applicant shall do, but shall not be limited to, the following:
  - (a) Place sand bags around drainage inlets and the edge of building pads, to prevent runoff/sediment transport to the beach.
  - (b) Use debris fences as appropriate.
  - (c) Conduct a pre-construction meeting to review procedural and BMP guidelines.
  - (d) Remove all stockpiles in advance of storms and storm tides.
  - (e) No construction materials, debris, or waste shall be placed or stored seaward of the existing seawall and sandwall where it may be subject to wave erosion and dispersion.
  - (f) Develop and implement spill prevention and control measures.
  - (g) Provide sanitary facilities for construction workers.
  - (h) Maintain and wash equipment and machinery in confined areas specifically designed to control runoff.
  - (i) Prevent thinners or solvents from being discharged into sanitary or storm sewer systems.
  - (j) Dispose of washout from concrete trucks at a location that is not subject to runoff and that is more than 50 feet away from any storm drain, open ditch, beach or surface water.
4. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
5. The Construction Best Management Practices plan approved by the Executive Director pursuant to this condition shall be attached to all final construction plans.
6. Any and all debris on the beach resulting from construction activities shall be removed from the project site, or stored in an area landward of the seawall and sandwall, and away from any potential tidal impacts, within 24 hours of completion of construction, and the beach area seaward of the seawall shall be restored to its previous natural condition.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**8. WATER QUALITY MANAGEMENT PLAN (WQMP)**

- A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall incorporate structural and non-structural Best Management Practices (BMPs) designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

1. Water Quality Goals

- (a) Post-development peak runoff rates and average volumes shall not exceed pre-development conditions.
- (b) Appropriate structural and non-structural BMPs shall be designed to treat, infiltrate, or filter the runoff from all surfaces and activities on the development site;
- (c) Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs;
- (d) Runoff from all roofs and parking areas shall be collected and directed through a system of structural BMPs including vegetated areas and/or gravel filter strips or other vegetated or media filter devices. Vegetated landscaped areas shall only consist of native plants or non-native drought tolerant plants that are non-invasive. The filter elements shall be designed to 1) trap sediment, particulates and other solids and 2) remove or mitigate contaminants through infiltration and/or biological uptake. The drainage system shall also be designed to convey and discharge runoff in excess of this standard from the building site in a non-erosive manner.

2. Parking Lot

- (a) The WQMP shall provide for the treatment of runoff from parking lots using appropriate structural and non-structural BMPs. At a minimum this must include a bioswale and/or filter designed specifically to minimize vehicular contaminants (oil, grease, automotive fluids, heavy metals, hydrocarbons), sediments, and floatables and particulate debris.

- (b) The applicant shall regularly sweep the parking lot at a minimum on a weekly basis, in order to prevent dispersal of pollutants that might collect on those surfaces.
- (c) The detergents and cleaning components used on site shall comply with the following criteria: they shall be phosphate-free, biodegradable, and non-toxic to marine wildlife; amounts used shall be minimized to the maximum extent practicable; no fluids containing ammonia, sodium hypochlorite, chlorinated solvents, petroleum distillates, or lye shall be used;
- (d) The applicant shall not spray down or wash down the parking lot unless the water used is directed through the sanitary sewer system or a filtered drain.
- (e) All BMPs shall be operated, monitored, and maintained for the life of the project and at a minimum, all structural BMPs shall be inspected, cleaned-out, and where necessary, repaired at the following minimum frequencies: (1) prior to October 15<sup>th</sup> each year; (2) during each month between October 15<sup>th</sup> and April 15<sup>th</sup> of each year and, (3) at least twice during the dry season.
- (f) Debris and other water pollutants removed from structural BMP(s) during clean-out shall be contained and disposed of in a proper manner;
- (g) It is the applicant's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.

3. Restaurant /dining room.

- (a) The applicant shall install grease traps and debris control to reduce runoff and other discharges from the restaurant operation.
- (b) Grease traps shall not discharge to the sewer.
- (c) Interior and exterior wash down areas shall not discharge to the storm drain, beach or parking lot.
- (d) No Styrofoam or other plastics shall be used for take out food or beverages.
- (e) The applicant shall cover all trash cans
- (f) All containers shall be designed to resist scavenging animals.

- B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**9. PARKING MANAGEMENT PLAN**

**A.** Prior to issuance of the permit, the applicant shall provide for the review and approval of the Executive Director, a parking plan showing the methods and locations that it will use to provide no less than 191 on-site attendant stacked parking and/or remote parking spaces, over and above the 164 spaces shown on its plans, during weekends and peak use times during the summer period (Memorial Day weekend through Labor Day weekends) between the hours of 10:00 a.m. and 6:00 p.m.

- (1) If spaces are shown on a remote site, the applicant shall provide evidence of a valid, renewable agreement to use the site. If remote parking is used, the site(s) used cannot be a public beach parking lot, street parking, or a public park.
- (2) If at any time the applicant cannot provide the required number of spaces, it shall notify the executive director within no fewer than 30 days before the expiration of the relevant lease or agreement, and the applicant must provide an alternative site, approved by the Executive Director, to provide the 191 parking spaces.

**B.** The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

**10. VIEW CORRIDOR ALONG PACIFIC COAST HIGHWAY**

**A.** In order to provide and maintain a coastal view corridor from Pacific Coast Highway, **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit a written agreement subject to the review and approval of the executive director in which it agrees to maintain two view corridors across its property from Pacific Coast Highway to the waterline of the Pacific Ocean. The first view corridor shall extend from the easterly property approximately 240 feet west along the northern property line to the most easterly building, as shown on Exhibit No. 11. The second view corridor shall extend from the westerly property approximately 600 feet east along the northern property line to the realigned driveway, generally depicted in Exhibit No. 11. The objective of the view corridor is to enhance and protect views of the shoreline or ocean from the point of view of a motorist on PCH.

1. In support of this agreement the applicant shall submit, for the review and approval of the Executive Director, an encroachment permit from the California Department of Transportation, for the trimming and maintenance of the plantings and fences adjacent to the Club's northern property line in the public right-of-way along Pacific Coast Highway. The encroachment permit shall enable the applicant to maintain the plantings

as long as the structures subject to this permit are occupied.

2. To carry out this obligation the applicant shall remove any opaque material or barrier along or on the fence that may obstruct views over the property from PCH, and trim and maintain the plantings and any other vegetation within the view corridor along the northern property line to a height of no greater than three feet, as measured from existing grade. All vegetation within the view corridor shall be trimmed no less than four times each year.

**B.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

## **11. PACIFIC COAST HIGHWAY ACCESS EASEMENT**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit an irrevocable offer to dedicate an approximately 1,125 square foot wide public access easement that traverses across the property from the northeastern corner, west approximately 150 feet, tapering to join PCH where the shoulder provides adequate width to accommodate foot and bicycle access outside the travel lane, generally depicted in Exhibit No 9. The Executive Director shall determine the exact location in consultation with the California Department of Transportation, County of Los Angeles Department of Beaches and Harbors, Department of Parks and Recreation, and the Bel Air Bay Club.

**B.** The irrevocable offer shall be of a form and content approved by the Executive Director, free of prior encumbrances, except for tax liens, that the Executive Director determines may affect the interest being conveyed, and shall provide the public the right to improve the access easement for pedestrian and bicycle access. The dedicated access easement shall not be open for public use until a public agency or private association approved by the Executive Director agrees to accept responsibility for maintenance and liability associated with the access easement. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The offer shall run with the land in favor of the State of California binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

## **12. MAINTENANCE AND LIFEGUARD SERVICE**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall agree in writing, for the review and approval by the Executive Director, that the

applicant will maintain the portion of State Beach directly seaward of the applicant's property, generally depicted in Exhibit No. 16. Maintenance shall include maintaining the area in a clean and unobstructed condition for public beach recreational use; and the provision and maintenance of trash and refuse containers for public use. The lifeguard tower and all trash containers shall be painted the same color as those operated by Los Angeles County and shall not contain the name or identifying symbols of the Bel Air Bay Club.

- (1) The applicant shall maintain and operate a portable lifeguard structure and provide lifeguard services for the public, consistent with standards adopted by Los Angeles County's Lifeguard. Lifeguard service shall be provided, at a minimum, during the weekends and holidays during the summer period (Memorial Day weekend through Labor Day Weekend).

**B.** The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

### **13. FUTURE DEVELOPMENT**

This Coastal Development Permit A5-PPL-02-162 and 5-02-099 is only for the development expressly described and conditioned herein. The permittee shall undertake development in accordance with the approved coastal development permit. Any proposed changes to the development shall be reported to the Executive Director. No changes to the approved development shall occur without a Commission amendment to this coastal development permit or a new coastal development permit unless the Executive Director determines that no amendment or new permit is required.

### **14. DEED RESTRICTION**

**PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either

this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**VI. APPROVAL FINDINGS AND DECLARATIONS FOR COASTAL DEVELOPMENT PERMIT A5-PPL-02-162/5-02-099 (Dual Permit Jurisdiction):**

The Commission hereby finds and declares:

**A. Project Description and Location**

The applicant proposes to demolish 30,701 square feet of the existing 51,120 square foot lower Bel Air Bay Club Facility, construct 39,113 new square feet resulting in a 59,532 square foot Club Facility; seaward realignment of approximately 248 linear feet of an existing 812 linear foot sea wall; seaward realignment of approximately 220 linear feet of an existing approximately 464 linear foot garden wall (sandwall); realignment of the Club's driveway with the Pacific Coast Highway (PCH) /Bay Club Drive interchange; and offer to dedicate an access easement for pedestrian and bicycle use.

Approximately 6,600 cubic yards of grading is being proposed. Grading is proposed for the realignment of the driveway approximately 30 feet to the east of the existing location in order for the driveway to be aligned perpendicular with the Pacific Coast Highway and Bay Club Drive intersection, and to raise the elevation of the driveway and adjoining portions of the parking lot, a maximum of approximately 6 feet to eliminate a potential hazardous traffic situation with the facility's egress and ingress.

With the permission of California Department of Transportation (Caltrans), the applicant is also proposing to trim and maintain, the existing hedgerow that runs the approximately 1,200 foot length of the property along Pacific Coast Highway right-of-way, along the easterly portion of the property, or east of the proposed realigned driveway to the eastern property line (576 feet) the applicant is proposing to trim the hedgerow to a height of 6 feet. Along the westerly portion, from the western side of the proposed realigned driveway to the western end of the property (592 feet) the applicant is proposing to trim the hedgerow to 3 feet, which will allow views of the ocean. The purpose of the proposed trimming is to improve the appearance of the area along PCH and provide public views along PCH along western portion of the property.

The applicant is also proposing to dedicate an easement adjacent to the Pacific Coast Highway right-of-way, at the northeast corner of the BABC property. If Caltrans accepts the easement the State could construct a five to six foot wide shoulder to eliminate a narrow (approximately 1 foot wide) and hazardous public access condition along PCH, and provide pedestrian and bicyclists enough room to safely traverse this section of PCH. The offer to dedicate will run for a term of twenty-one years, after which the offer will expire.

The project site is an irregularly shaped site totaling approximately 5.74 acres in size. The proposed project is located seaward (south) of Pacific Coast Highway (PCH), on the sandy

beach, and adjacent to Will Rogers State Beach on the east and west facing sides of the property (see Exhibit No. 1). Depending on tides and beach sand conditions (typically the beach sand is eroded in the winter season and returns in the summer season) the existing facility is between a few feet (at the western end of the property in the winter months) to approximately 250 feet (at the eastern end of the property in the summer months) from the surfline and wet sandy beach. Currently, waves and high tides from winter storms overtop the existing seawall and inundate the Club facility.

Portions of the proposed development including the main building, terraces and paving, and new realigned seawall are proposed to be located seaward of the existing seawall. To protect a portion of the new development and to eliminate the existing 90 degree angle in the seawall, a 232 linear foot portion of the existing 825 linear foot seawall that currently protects the central and western portion of the existing development will be realigned a maximum of 40 feet further seaward to eliminate the 90 degree angle. The realigned seawall will connect to the existing southwest corner of the central portion of the seawall and taper back to the west approximately 196 feet and connect with the existing seawall. The realigned wall will enclose approximately 3,650 square feet of sandy beach area located entirely on the applicant's property (Exhibit No. 5). On the eastern portion of the site The proposed two-level cabañas in the eastern portion of the property and the existing sandwall in front of the cabañas would be realigned and encroach a maximum of approximately 15 feet further seaward.

According to the Draft Initial Study (2/16/00), the Bel Air Bay Club was founded in 1927, and consists of two separate facilities: Upper Facility and Lower Facility. The two facilities are located on separate properties and are separated by PCH. The upper facility is located inland of PCH on the bluff face. The Lower Facility consists of various buildings, including cabañas, outdoor recreational courts, patios, and parking. All development proposed under this coastal permit application is proposed for the Lower Facility.

A recently completed boundary line agreement with the State Lands Commission, Bel-Air Bay Club Title Settlement and Boundary Line Agreement BLA 272 /AD455 dated October 20, 2003, recorded on February 27, 2004 in the Official Records of Los Angeles County as instrument #04 0461738, sets a new more landward boundary separating the Club property from public tidelands. The Agreement also includes three leases described in more detail below. The Title Settlement and Boundary Line Agreement was executed after the applicant submitted the application. The applicant has not amended its project description to include development mandated in the agreement.

## **B. State Boundary Line Agreements**

In 1937, the property was the subject of a Boundary Line Agreement (BLA No. 1) with the State of California. The history of the 1937 Boundary line agreement is set out in detail in the Bel-Air Bay Club Title Settlement and Boundary Line agreement BLA 272 /AD455 dated October 20, 2003. Basically, in 1927 a private company, the Los Angeles Mountain Park Company constructed groins on this part of the coastline. They then leased and



subsequently sold this property to the Bel Air Bay Club. In 1937 the Mountain Park Associates and other parties including the Bel-Air Bay Club applied for a boundary line agreement to recognize the new mean high tide line, which was seaward of the MHT line that had been surveyed in 1923. Late in 1937, the Chief of the Division of State Lands of the Department of Finance approved the Boundary Line Agreement. The agreement, later referred to as BLA 1, identified and established a fixed line, designated the ordinary high water mark, as the boundary line between the property of the State of California and upland land owned by the private parties including Bel Air Bay Club. Shortly thereafter in 1938 the Legislature established the California State Lands Commission (CSLC). In 1939 the CSLC "repudiated" the boundary agreement (BLA 1) but no formal action took place.

The Club constructed facilities and occupied the site. In 1952, the State Lands Commission granted a lease to the Club, between the boundary established by BLA 1 and the new shoreline. This lease expired in 1962. The Bel Air Bay Club posted the land and prevented public use of the leased portion of the beach and of the beach inland of the boundary established in the agreement.

In 2002, State Lands and the applicant entered into negotiations to establish a new boundary line. Due to legal and factual issues involving BLA 1, including "uncertainty as to the exact nature, time, location and extent" of natural and artificial influences that have affected the common boundary between public and private lands, and "the applicant's history of use of the property for recreational purposes," State Lands and BABC decided to enter into an agreement to "settle forever the location of the seaward boundary of the lands owned by BABC". In 2003, CSLC negotiated and approved a new Title Settlement and Boundary Line Agreement.

The 2003 Title Settlement and Boundary Line Agreement realigned the common property line (the agreed boundary line) approximately 60 feet landward of the 1937 BLA No. 1 boundary line in the western portion of the site. In the eastern portion of the site, the 2003 line generally follows the 1937 line (see Exhibit No.15).

The Title Settlement provides that to establish the new common boundary line that the Bel-Air Bay Club quitclaim to the State approximately 31,928 square feet of land (on the beach) and the Club would lease (20 year term) from the State, for private recreation purposes, approximately 12,980 square feet (.298 acres) of beach area in the southeast portion of the project site, adjacent to the Club. At least in the summer, there is expected to be sandy public beach seaward of this recreation lease land. To effectuate the new boundary the State also agreed to quitclaim any and all lands inland of the new line, as shown in Exhibit No. 15, to the Club. No public access will be allowed on the Club's property or on the Recreation Lease property, except that if the condition of the beach area is such that access cannot be safely made across the public beach the Club shall allow the public to pass and repass on the Club's property. The new agreement also included two other leases: one for public beach maintenance and lifeguard tower service to be provided by the Club; and the other for groin maintenance for the three groins that are currently located on the property. The beach maintenance lease (25 year term) will cover the public beach area directly in front of the Club's property, from the Club's western and eastern property lines

and extending seaward from the new boundary line to the tide line (see Exhibit No. 16). The Settlement agreement and lease require the Club to allow public access and use of this area, and to place signs on the beach on the boundary line indicating the location of the public beach. The settlement and lease also allow the Club to construct seasonal sand berms on this land, consistent with coastal development permit no. 5-92-108 as amended. Finally the settlement and lease require the Club to remove catamarans, signs, structures and any other objects not specifically authorized from the public beach property and to remove obstructions or construct a facility to provide public access adjacent to the westerly property line.

The State Lands Commission contends that the readjustment of the boundaries between state and private property and the creation of new leaseholds is exempt from the Coastal Act (PRC §30416 (c)). However, the Settlement explicitly states that development within either state or private property in the Coastal Zone is subject to the Coastal Act. The standard of review for this development is the Chapter 3 policies of the Coastal Act.

The applicant has not included the signage of the public beach, removal of fencing from State property, relocation of facilities or the modification to the groin on the west to provide public access or removal or repair of the groins as part of this application. A separate application will be necessary.

### **C. Coastal Access and Recreation**

Article X Section 4 of the California Constitution provides:

*No individual, partnership, or corporation claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this state shall be permitted to exclude the right of way to such water whenever it is required for any public purpose... and the Legislature shall enact such law as will give the most liberal construction to this provision so that access to the navigable waters of this state shall always be attainable for the people thereof.*

The Coastal Act contains many policies pertaining to the maximization of public access and public recreational opportunities within the coastal zone.

Section 30210 of the Coastal Act states:

*In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211 of the Coastal Act states:

*Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30213 of the Coastal Act states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30220 of the Coastal Act states:

*Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

## **1. Physical Access**

Since the proposed project is located between the first public road and the sea and on sandy beach, the applicant's project must be assessed for its impacts on public recreation, and public access. The project proposes additions and modifications to a private club. With exception of pedestrian passage along the waterline during storm tides, required in CDP No. 5-92-108, no public access has been historically available or is proposed to any of the new or existing development on the Club's property, or to the beach that is located on its property. The development proposed does not provide maximum access for all the people of the State, there is no area of customary public use, and the Club is not a facility that serves low and moderate income people. In addition, the proposed seaward extension of the development will remove approximately 5,400 square feet of sandy beach from recreation use even by club members, so the proposed development will substitute other private recreation for private beach recreation.

### **(a) Expansion of public beach as a result of the 2003 Title Settlement and Boundary Line Agreement with the State Lands Commission.**

The title settlement is not part of the application, but carrying out the 2003 Title Settlement and Boundary Line Agreement (Settlement) will result in additional sandy beach seaward of the applicant's private beach being available for public use, at least in the summer, when the beach is wide. The Settlement requires some development, including posting of signs, improving access through or over a groin and removal of fences. This development is not part of the application.

The facility was constructed in 1927. In 1937, the Department of Finance agreed on the boundary line between the State and upland property owners (See exhibit No. 14 and section B above.) Relying on the 1937 boundary line agreement, the Club constructed a clubhouse and other amenities and operated the facility. In 1952, the Club leased portions of the beach seaward of its boundary in the eastern down coast portion of its property for private use. The lease expired in 1962. Based on its leases and boundary line agreement,

the Club excluded the public from the beach seaward of the Club. With the new Boundary Line Agreement (BLA 2003) the boundary line follows the 1937 line established in BLA No. 1 along the eastern portion of the property, and from the center of the property to the western property line, the new boundary line is located landward a maximum of approximately 60 feet from the 1937 BLA No. 1 line (see Exhibit No. 15). This readjustment of the boundary line results in approximately 33,137 square feet, or approximately .79 acres, being returned to public use.

As part of the 2003 agreement State Lands entered into three leases with BABC. One lease is for beach maintenance, requiring the Club to clean and maintain for the public, and permitting the placement and temporary maintenance of a lifeguard tower and temporary sand berms to protect the BACBC property from storm waters, to the extent authorized by Coastal Commission permits. The applicant agrees that it will provide beach maintenance and lifeguard service for Club members and the general public as part of the lease. The maintenance lease is for all areas seaward of the 2003 BLA line (except for the recreational lease area discussed below), between the BABC's eastern and western property lines. The maintenance lease is for a term of twenty-five years. BABC is not allowed to interfere with public access to and use of this area, and must post signs indicating it is public.

The second lease is a beach recreation lease for an approximately 12,557 square foot (0.298 acres) sandy beach area located in the eastern portion of the site (see Exhibit No. 16). The lease allows exclusion of the public from the lease area. The recreation lease allows only passive recreation (volleyball courts) and storage of portable lifeguard tower and catamarans and maintenance of the area. The lease does not allow for the construction of any structures. The lease is for a term of twenty years with rent of \$50,596 to \$56,921 per year (all monies going to the State's General Fund). The applicant contends that exclusion of the public from this lease area is not a change in use and does not require approval of the Commission because the public was already excluded from this area under BLA-1.

The third lease is a "Protective Structure" lease. The lease is for a term of 20 years and allows the applicant the right to maintain the three groins currently on the property. (See Exhibit No. 16). According to the State Lands 2003 BLA, the groins were erected prior to 1937. State Lands is requiring the applicant to repair and maintain the groins and remove any hazardous conditions from the groin (this will require the applicant to submit a separate coastal development permit).

**(b) Proposed development will include enclosure of approximately 5,394 square feet of sandy beach as a result of seaward extension of the seawall and garden wall.**

The applicant proposes to use the area landward of the realigned seawall to accommodate approximately 228 square feet of additional interior building and 1,874 square feet of lanai/patio area. Directly behind the realigned sand wall the applicant will demolish the existing single level of 36 cabanas and construct 67 cabanas within two levels. The cabanas will be aligned with the straightened sand wall.

With the exception of the recreational lease area, the proposed development will be located on the applicant's fee title property and landward of the line established by the 1937 BLA and the recent 2003 BLA. While the development is proposed within the leasehold, the proposal includes new structures (approximately 228 feet of interior space and 1,874 square feet of lanai/patio area) seaward of the present structures. These structures are proposed behind a realigned seawall and a realigned garden wall, which are proposed to be realigned seaward to "smooth out" an angle in both walls. The new seawall is proposed to encroach seaward of the existing alignment a maximum of 38-40 feet. The realigned seawall will connect to the existing southwest corner of the central portion of the seawall and taper back to the west approximately 196 feet and connect with the existing seawall. This realignment of the seawall and new development behind the wall will take up approximately 3,650 square feet of sandy beach area.

The garden wall, located in the eastern portion of the property extends approximately 420 feet from the eastern end of the property to the central portion of the property. As the wall extends to the east a portion of the wall angles landward approximately 16 feet from the most seaward extent of the garden wall, and then angles back out toward the eastern boundary line (see Exhibit No. 3). The applicant is proposing to straighten the wall by removing the angle and realigning that section further seaward to be in line with the rest of the wall. This realignment of the garden wall and new development behind the wall will take up approximately 1,744 square feet of sandy beach area.

Although the new seawall and garden wall are proposed to encroach no further seaward than the most seaward extent of the existing walls, the realigned walls will extend new development further seaward, closer to the public beach and to the water, and take up a total of approximately 5,394 square feet of sandy beach: approximately 3,650 square feet of sandy beach area behind the new seawall and 1,744 square feet behind the new garden wall.

The proposed seaward encroachment of the seawall will vary from 40 to 70 feet from the public/private property line (2003 BLA). The realigned garden wall will vary in distance from the public/private property line (2003 BLA) from approximately one foot at the eastern corner of the garden wall, to approximately 100 feet along the western portion of the garden wall. Although the proposed encroachments will occur on the applicant's fee title property, the proposed permanent alteration of sandy beach would not maximize public access or promote low cost visitor recreational facilities and would not support public water-oriented recreational purposes. Furthermore, the area behind the wall will provide recreation for Club members, but the recreation that it will provide, dining areas, patios, and bars could equally occur anywhere and is not coastal dependent. Moreover, the seaward movement of the wall will result in the removal of the sandy beach area for beach recreation even for members.

**(c) Approval of the new seawall in the proposed locations will affect public access by reducing the sand supply.**

With less sand available, the “public “area seaward of the club and down coast of it will diminish in size. Shoreline processes move sand along the beach from one area to another as a result of waves acting on beach sand, irrespective of ownership. The proposed seaward realignment of the seawall encloses more sandy beach area, and that area will no longer be available as a source of sand or serve as an inland storage area for sand for shoreline processes [This shoreline process is discussed in more detail in the Coastal Hazard section (section D.) below]. With the loss of sand and the potential narrowing of the public beach in front of the Club and downcoast, there will be less public area for public use. Therefore, there will be an adverse impact to public access.

The applicant has indicated that the proposed project, pursuant to the 2003 BLA, has public benefits that will improve public access in the area. In the 2003 BLA, the agreement requires that the applicant provide lifeguard service and beach maintenance, including trash and refuse service, for the public beach area directly in front of the Club; provide public access improvements at the groin located immediately to the west of the applicant’s property, and provide public signage notifying the public of the availability of the beach for public use.

The groin, in which access improvements are required, is owned by the City of Los Angeles, through a January 1947 agreement with the State Lands Commission. The groin provides an obstacle to continuous lateral beach access due to the riprap and lower sand elevations. Therefore, in order to improve access at the groin, at least two access improvements have been suggested. The first alternative would be a stairway built into the existing groin. The second alternative would be to remove rock along the upland portion of the groin to create an approximately 10-foot wide opening. Both alternatives would be located on the portion of the groin that lies on State property. Any access improvement would be constructed and funded by the BABC, per the 2003 Boundary Line Agreement.

Furthermore, along the western boundary line, adjacent to the groin, there is a concrete vertical wall, approximately 7 to 8-foot high, with a chain link fence at the end and atop the wall, which encroaches approximately 8 feet onto State lands. The wall in combination with the groin further impedes public access across the beach, especially during high tide. Based on the information Commission staff has not been able to determine the date the wall was built; however, pursuant to the 2003 BLA, the BABC is required to remove all private encroachments, including the portion of the wall and fence that extends out onto State Lands in order to free the public beach of all private encroachments and to improve public access.

Providing access across this groin and removing the portion of the vertical wall that encroaches onto public beach, both of which currently pose an obstacle for continuous lateral access across this portion of beach, will improve public access and help mitigate the Club’s private recreational activities within the area of exclusive use (State Lands Recreational Lease) and the seasonal berming of the beach (berming has been addressed

under CDP No. 5-92-108). The Los Angeles County's Life Guards, and the Department of Beaches and Harbors have expressed support for the access alternative of providing an opening in the groin which will benefit public safety and maintenance. The City has reviewed the preliminary request and has expressed conceptual approval for the access improvement for the groin. However, at this time, a coastal engineering report or engineering plans have not been prepared for either of the alternatives, so the feasibility of either alternative can not be determined at this time. A report and plans would need to be reviewed and approved by the City's engineering department, State Lands engineering division, and by the Commission's Executive Director.

Therefore, to ensure that the access improvements for the groin are completed and the wall/fence encroachments have been removed from the beach to improve public access, Special Condition no. 6 requires the applicant to provide approved plans and agree to construct the access improvements prior to the issuance of the permit and to complete construction of the improvements prior to occupancy of the proposed development. The access improvement for the groin shall be reviewed and approved by the City's engineering department, State Lands engineering division, and by the Commission's Executive Director,

In addition to the beach access improvements under the State Lands agreement, the applicant is also offering as part of the applicant's proposed project, to record an offer to dedicate a portion of land along the northeast corner of the property adjacent to the PCH right-of-way for future pedestrian and bicycle access improvements to eliminate a hazardous condition. In this area, due to the roadway shoulder narrowing to less than a foot, there is very little room along the roadway for bicyclists and pedestrians to safely pass. There is a narrow area between the guardrail and property fence for pedestrians to walk through, but due to an above-ground water main pipes/valves, access is difficult (see Exhibit No. 18, letter from Los Angeles County Bicycle Coalition, 12/5/03). Therefore, the applicant is proposing to dedicate an area to allow widening of the roadway shoulder to allow an adequate area for pedestrians and bicyclists to safely traverse this section of PCH. The area to be dedicated would be approximately a maximum of 14 feet wide and 150 feet long. The exact distances will be determined once a design has been developed. However, the applicant is not proposing to construct the roadway improvements. The applicant is only offering to dedicate a portion of its property for future improvements by other responsible agencies. Shoulder widening and access improvements would be the responsibility of the California Department of Transportation and would require the cooperation from the County of Los Angeles (Department of Beaches and Harbors) since the County of Los Angeles owns a portion of the adjacent property to the east, which would be needed to improve the access along this area. Both Caltrans and the County have expressed interest in widening the shoulder for improved access. As a condition of this permit, Special Condition No. 11, requires an offer to dedicate a portion of the applicants property, generally depicted in Exhibit No. 9.

Furthermore, because of the historic use of the area by the Club, lateral access concerns, and previous signs that limited access, State Lands has required the applicant to remove existing signs and post new signs at the western and eastern ends of the property and

across the property informing the public of the availability of the beach for access and recreational use. Because of the Club's property and improvements extending onto the beach area, the line between private and public beach is unclear and could be a deterrent to the public. Therefore, as required by State Lands, this permit is also conditioned to require the placement of signs along the applicant's property notifying the public of the location of the public beach and the public's ability to use the applicant's property landward of any temporary berming (CDP No. 5-92-108). Signage shall include permanent signs and temporary signs that are placed during berming and removed once the berms are removed. All existing signs shall be removed unless approved as part of the signage plan. The applicant shall submit a signage plan, to be reviewed and approved by the Executive Director, and by State Lands Commission staff. The plan shall include the location, wording, and size of all plans.

As conditioned, the proposed development would prevent the adverse public access impacts associated with development encroaching further seaward, and that will continue to require shoreline protection, and will have private recreational activities on a public area of beach where the Club will have exclusive use. As conditioned, the project will provide substantial public benefits. As conditioned, the proposed project will be consistent with Sections 30211, 30213, and 30220 of the Coastal Act. Furthermore, the permit approved by the Commission will allow the Club to renovate and expand its existing facilities and to utilize approximately 12,679 square feet of leased public land in connection with the facility.

## **2. Nondiscrimination**

The Coastal Act requires the maximization of public access for all the people. Although the circumstances of this application make it appropriate for the Commission to approve some development on public land leased by a private organization, the public access provisions of the Coastal Act can only be fully implemented if membership in the subject private organization is not restricted on the basis of any suspect classification. Accordingly, Special Condition No 5 requires the applicant to certify that it will not discriminate in its membership policies on the basis of race, sex, religion, or sexual orientation during the life of the approved project. By certifying that its membership policies are non-discriminatory, the applicant and its proposed renovated and enlarged facility complex would be consistent with the concerns raised by the cited sections of the California Constitution and the California Coastal Act of 1976.

The Coastal Act is written in terms of public rights, yet the basis of this condition is not limited to the terms of the Coastal Act. Even though there is nothing explicit in the State Lands leases with regards to non-discrimination, as a matter of law the Commission may depend upon the courts to read in such a policy justification. If the only development that was before the Commission was the permit application for the private Club facilities, and the project did not involve the use of any state lands or properties, this permit would only be the issuance of license and the laws would not support this condition. However, this case is not so limited. Notwithstanding the presence or absence of any specific section in the Coastal Act, as a regulatory State agency, approving the use of public recreational



lands for use by an exclusive private Club for an extended period of time, the Commission has the right under the Constitution to assure that the private Club will be open equally to all segments of the public [see Coastal Development Permit No. 5-85-76, 5-89-627 (Jonathan Club), upheld in *Jonathan Club v California Coastal Commission* (1988), 243 Cal Rptr. 168 depublished].

The intent of Special Condition number 10 is to require that the applicant, which is an exclusive membership organization, for a project located partially on state owned land leased to the applicant, certify that it does not discriminate in its membership policies on the basis of race, sex or religion. To have meaning, this certification must be made by the governing body or its fully authorized agent, and must be part of the membership policies of the Club for as long as the project approved in this permit on state leased lands remains in existence. Although the Executive Director does not have approval authority over these membership policies, the membership policies must remain in effect for the life of the project.

In response to this issue, the applicant has indicated that the Club has had a long-standing policy to not consider race, religion, or gender in its membership application process. The applicant has submitted documentation, including the Sponsor's *Guidelines for Regular Membership*, a letter from their current Club President, Ms. Maida Hastings, and the Club's bylaws to show that the Club does not discriminate in their membership practices. In the Sponsor's *Guidelines for Regular Membership*, which according to the applicant is provided to members for sponsoring new members, it specifically states that the "Club does not discriminate with respect to race, religion or gender in the Admissions Process". Furthermore, the letter from Ms. Hastings, President, states that it is the Club's long-standing policy not to consider race, religion or gender in its membership application process. However, despite these two documents, the Club's bylaws do not contain any policy that addresses non-discrimination with regards to membership practices and there is no guarantee in either of the documents supplied that the policies articulated therein will not change.

In order to be effective the nondiscrimination policies must be incorporated into the organization's bylaws. Therefore, Special Condition No. 10 requires that the applicant submit evidence that a non-discrimination policy has been incorporated into the Club's bylaws for the life of the project approved by this permit.

### **3. Parking**

Section 30252 of the Coastal Act states:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public

transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of on-site recreational facilities to serve the new development.

Because of the project's proximity to the State beach and to public parking lots, development on the site could adversely impact public access to the beach. If the parking demand generated by new development exceeds the supply of parking that is available on site, members/visitors of the Club could potentially utilize the surrounding public parking that is needed to support general beachgoers, strollers, bicyclists, and joggers that depend on and use the public parking that is available in the general vicinity of the site. The surrounding area consists of Will Rogers State Beach and the adjacent beach parking lot that provides approximately 598 public parking spaces. Public parking is also provided west of the club, along the shoulder of PCH. If adequate parking is not provided on-site, it is possible Club members would use the surrounding public parking. This would usurp the limited public parking, especially the nearby street parking, and have an adverse impact on public beach access in the area. Therefore, in order to determine if the proposed project is consistent with the access policies of the Coastal Act, the Commission must find that the parking demand generated by the proposed development is adequately supported by the supply of on-site parking.

The proposed project includes the demolition of 30,701 square feet, or 60%, of the existing 51,120 square foot facility and construction of 39,113 square feet of new building area for a total net gain of 8,412 square feet, or an increase of 16% over the existing facility. According to the submitted plans, of the 8,412 square feet of additional space, approximately 80% is to be used as interior circulation.

According to the City of Los Angeles, in its approval, the City estimates the required parking for the proposed project at 20.3 spaces based on parking ratios applied to the facility's various uses (see Exhibit No. 12).

The Commission, through past Commission permit actions has developed parking standards for various uses within the Coastal Zone. These standards were originally derived from a study commissioned by the City of Los Angeles on the parking generated by various uses in the City. Although the city never adopted the standards, finding that in most areas of the city surplus on street parking could accommodate extra cars, the Commission has applied it in Los Angeles County in areas where under-parked establishments would reduce public parking available for beaches and recreational facilities. For privately used beach club facilities the Commission has established a parking standard of one parking space for each four persons, based upon maximum capacity (maximum capacity of the facility is based on maximum occupancy standards established by the Los Angeles Fire Department) of all facilities (areas of assembly) capable of simultaneous use as determined by Commission staff, plus one parking space for each two employees. This parking standard has previously been applied to the Jonathan Club

in the City of Santa Monica (CDP No. 5-85-076), which is an approximately 56,000 square foot private club facility similar in uses to the BABC.

The areas of simultaneous use, or areas of occupancy, of the new facility will total 25,190 square feet. That amount of square footage would generate a parking demand of 380 spaces attributable to the new or reconstructed facility (see Exhibit No. 13). However, given the nature of the facility and the various uses, there is a potential for shared use of the facilities by the members, where members will use more than one facility at the Club per visit, such as the exercise room, dining area, and locker rooms. Such shared use, would reduce the total parking demand compared to a parking demand based on simultaneous maximum occupancy of each separate use. In the absence of any parking studies and information regarding shared parking and member use of the facility, based on estimates used for other shared use development, there is a potential that approximately 25%, or 95 spaces of the 380 space demand generated by the rebuilt and new square footage would be for shared use. Therefore, the parking demand generated by the new areas of occupancy would be 285 parking spaces.

Furthermore, the applicant indicates the Club employs 40 people during the peak summer period. Estimating the number of employees for the proposed project based on the Club's existing square footage of 51,120, the number of employees for the new development would be approximately 24. Applying the Commission's parking standard of one space for every two employees, 12 parking spaces would be required. Therefore, the total parking demand generated by the proposed project square footage plus the required parking for employees would be 297 parking spaces (285 + 12).

The existing Club currently has 145 on-site parking spaces. Through the redesign of the facility and restriping the applicant is proposing to provide an additional 19 on-site parking spaces for a total of 164 spaces. The applicant asserts that the City's Los Angeles Department of Transportation provides parking space credit for the on-site provision of bicycle parking space. Hence, based on the number of bicycle spaces provided, the City has given the applicant a parking credit of 3 additional spaces for a total of 22 automobile spaces. The Commission however, based on past Commission action on coastal development permits, has considered bicycle spaces separately from automobile parking spaces; therefore, the Commission only recognizes the addition of 19 spaces. Furthermore, the applicant is demolishing 30,701 square feet, or 60% of the 51,120 square foot facility, and leaving 20,419 square feet, or 40% of the existing square footage. Since 60% of the existing square footage will be demolished, 60% of the existing 145 parking spaces, or 87 parking spaces, should be allowed to be applied towards the supply of parking for the new generated demand (new development) and the remaining 58 spaces is support parking for the 20,419 square footage that will not be demolished. Therefore, the total supply of parking provided by the proposed project for the new development will be 106 (87 + 19) parking spaces.

Based on the overall demand of 297 parking spaces required for the proposed new development and the 106 parking spaces that will be available for the proposed new development, the proposed project will be deficient 191 parking spaces.

The applicant has argued that the proposed development would not result in an increase in intensity of use of the existing site. The applicant states that the membership is limited to a maximum of 852 memberships (750 Regular and 100 Junior memberships. Regular membership is based on per family, not on individual members) and the renovation will not substantially increase the facilities overall size, therefore, the development will not substantially increase use. The applicant further contends that the existing facility is rarely heavily used, except during the Fourth of July. The applicant states that recently, during a hot summer weekend in May, the maximum parking demand was 135 spaces. Furthermore, according to the traffic and parking study prepared by Crain & Associates in the Draft Initial Study, during the fall and winter months, based on observations, surplus parking was always available. The report also states that during the summer months, the parking demand is near capacity, but does not state that the demand exceeds the existing capacity.

Although the current situation may indicate that the existing facility has adequate parking, the Commission disagrees that the proposed project will not result in an intensification of the facility even with a limit on the number of memberships. The proposed development involves extensive demolition, over 60% of the existing square footage, and remodeling of the existing facility. The net increase in square footage for the existing square footage will be 8,412 square feet or 16% increase over the existing. The renovation and remodeling, which has not occurred since the Club was first constructed in the 1930's, will expand and improve the existing facility, which would result in an enhanced private recreation beach use facility. With the proposed improvements, the facility can generate more active membership creating greater demand by the existing membership. The Commission strongly believes that the proposed development would result in an increase in intensity of use at the project site.

Furthermore, the applicant has not provided a count of the actual number of individual members or a survey of daily use of the site; hence the Commission is unable to determine the membership usage and what the potential use might be after renovation. Moreover, although the Club's By-laws limit Regular memberships to 750, it allows membership to exceed that number with membership consent, hence, the actual number of memberships can increase which would also increase the parking demand.

Therefore, the Commission must apply the most stringent interpretation of the parking standards to ensure that the project will not have an adverse impact on public access. In previous Commission actions, the Commission has treated proposals similar to the applicant's proposal, which includes 60% demolition and extensive remodeling of an older facility, as if the entire proposal were a new development, and the Commission has not reviewed such additions/remodeling proposal projects separately from the impact of the existing facility without the addition/remodel proposal. The proposed development is not; therefore, merely an addition that would require a certain number of parking spaces to support only the additional square footage above what previously had existed. The proposed development would result in a greatly altered and enhanced facility that would generate a greater parking demand than currently exists on the site. Thus, the

Commission must require adequate parking support for the changed nature of the existing structures due to the increase in actual physical development proposed for the project site.

To address this issue the applicant would need to substantially reduce the size of the proposed project so that the project's parking demand does not exceed the amount of parking the applicant can provide on-site, or provide a parking management plan that includes attendant parking and remote parking to met the projected parking demand. As stated, the applicant is increasing on-site parking through re-striping and redesign of the parking lot to a total of 164 spaces. It appears, based on limited space, the applicant has maximized the parking area and cannot create additional parking, except through an attendant parking system that utilizes on-site stack parking. At this time it is not know how many additional parking spaces would be created through stack parking, but it is apparent, based on the limited size of the parking lot, the applicant could not provide an additional 191 spaces on site.

The applicant has indicated that the Club uses a remote site and shuttle system on July Fourth, which is the Club's most heavily used day. According to the applicant, on July Fourth, the Club utilizes parking at a nearby school on Marquez Avenue (Marquez Avenue Elementary). The school is approximately half mile from the Club. It may be possible that the applicant can use this remote site, or other remote sites, such as the parking lot at the Club's Upper facility, and provide attendant parking to make up the parking deficit, during summer weekends when public and private demand is at the highest. However, at this time, the availability of the remote lots and the number of spaces that would be provided is not known. Therefore, in order to accept these alternatives to mitigate the on-site parking deficit, the applicant would need to provide evidence of the availability and number of spaces that could be provided, and provide long term agreements with owners of the remote sites that allow the applicant to use the lots during the summer period.

Therefore, Special Condition No. 9, requires a parking management plan to require attendant parking on-site and/or remote parking during the summer weekends and summer holidays (Memorial Day weekend through Labor Day weekend) to provide 191 additional parking spaces above the 164 spaces provided as on-site marked stalls. The parking management plan shall show a parking layout for stacked parking prepared by a traffic and parking engineer, providing stacked parking spaces that can be provided above the number of parking stalls on-site, and provide information, such as location and number of spaces, hours of operation, and operation procedures. The applicant shall also provide long-term parking agreements for any remote site to be used for additional parking. The additional parking shall be provided during summer weekends and holidays (Memorial Day weekend through Labor Day weekend) between the hours of 10:00 a.m. to 6 p.m. As conditioned the Commission finds that the proposed project is consistent with Section 30252 of the Coastal Act.

#### **D. Hazards**

Section 30235 of the Coastal Act states in part:

*Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.*

Section 30253 of the Coastal Act states:

*New development shall:*

- (1) Minimize the risk to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along coastal bluffs.*

This site has been subject to storm damage, and part of the site is protected by a seawall. The applicant proposes to reconstruct its seawall as part of its project, extend part of the seawall seaward to “smooth” out a right angle, and construct new structures landward of the reconstructed seawall. This will result in the enclosure of beach sand by the wall, displacing approximately 5,400 square feet of sand area behind the reconstructed seawall and garden wall.

As noted above the Coastal Act limits the construction of new seawalls to two purposes: the protection of coastal dependent facilities and the protection of existing structures or beaches in danger of erosion. While the project is identified as a beach club, and the project is site in this location to take advantage of the beach, with the exception of the cabañas, most of the development on the site is not coastal dependent -- it consist of tennis courts, a patio bar, clubrooms, locker rooms a gym and restaurant – all of which are recreation facilities, but none of which are coastal dependent. In addition, the plan to reconstruct 60% of the facility makes it difficult to assert unambiguously that the seawall is necessary to protect existing development. The proposed project includes the reconstruction of 60 percent of the facility. After completion of the project, 40 percent will be an "existing structure," 60 percent will be a new structure. The applicant proposes to construct new structures whose footprints extend into the area captured by extending the seawall seaward. As noted above, and described in more detail below, enclosure of beach sand areas can have impacts on public access if the enclosure results in impacts to the sand supply.

Commission Coastal Engineer Lesley Ewing provided the following analysis of the project::

#### **“SITE DESCRIPTION and PROPOSED PROJECT**

“The Bel Air Bay Club is located adjacent to Will Rogers State Beach. Over the years a series of groins were constructed to stabilize the state beach, and the Bel Air Bay Club is immediately east, or downcoast, of one of these groins. The January 31, 2002 Report by Skelly Engineers describes this area and provides a history of the shore protection for the area. According to the Skelly Report, the Club built a vertical seawall along the western portion of the Club property sometime prior to 1962. This wall was damaged in the 1982/83 El Nino storms and was rebuilt in the same location, apparently with a deeper footing than was used initially. The Club is proposing to keep this wall in place. The Skelly Engineering report does not indicate that there will be any changes to this wall and the Burdge demolition plans do not show any changes to the wall or to the facilities immediately landward of this vertical wall.

“There is an existing 355-foot long wall fronting the central part of the Club. According to the Skelly Report, this wall was built sometime prior to 1962 and has not been reconstructed since it was first built. The wall has a shallow foundation and makes a 90-degree angle seaward to extend past one of the Club buildings. Due to the shallow foundation, scour has been a concern whenever this wall is impacted by waves. During the 1982/83 and/or 1997/98 El Niños the wall was undermined and required some shoring. In addition, the section of the wall with the right angle has experienced wave overtopping. As part of the renovation plan, the applicant is proposing to replace this 355-foot long seawall with a one that has a deeper foundation and a straighter alignment. The new wall will follow the existing alignment, except in the vicinity of the jog. At that location, the applicant proposes to “smooth” the wall, replacing a 230-foot long angled section of wall with a more seaward, 198-foot long section. The deepening of the foundation is proposed to reduce the possibility that scour may destabilize the wall. The “smoothing” of the seawall is proposed as a way to reduce the overtopping and additional scour that develops in this corner. The smoothing will also displace<sup>1</sup> approximately an additional 3,650 sq. ft. of beach landward of the vertical wall (as measured from the Burdge Demolition Plans). All modifications to this seawall are landward of the “Lease Line”<sup>2</sup>.

“The eastern portion of the Club is protected by a low relief garden/sand wall that seems to be a barrier for wind-blown sand and a way to delineate property use and is not protection against storm wave attack. The January 31, 2002 Skelly Engineering Report notes that this wall will be part of both the existing and proposed project, but the only noted change for the proposed wall is that the westernmost portion of the garden/sand wall is proposed to be removed. The Burdge Demolition plans do not show any changes to the westernmost portion of this wall, but propose a generally more seaward realignment of the two-story cabañas on the eastern portion of

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<sup>1</sup> “Displace landward” is used here to describe the enclosure of beach area that was previously seaward of the seawall by the reconstructed seawall. After construction the area will be landward of the seawall

<sup>2</sup> When this report was written the Settlement had not been signed. The new walls and development are landward of the Revised boundary between public land and state land, and therefore on the applicant’s property.

the Club and a seaward “smoothing” of sand/garden wall fronting these cabañas. From the demolition plans, approximately 220 feet of the garden/sand wall will be “smoothed” to be in line with the rest of the wall. The smoothing will remove a triangular, landward indentation in the alignment; at the peak of the triangle, defining the maximum relocation of this wall, the new alignment will extend approximately 16 feet seaward of the current alignment. The Coastal Engineering Report does not propose any new shore protection for this area, nor does it provide any justification for new shoreline armor in this area. This wall appears to provide little if any storm of flood protection value and the changes to this garden/sand wall do not appear to be done for any storm protection reasons. All garden/sand wall modifications are landward of the “Lease Line”.<sup>3</sup>

### **ADDITIONAL ACTIVITIES RELATING TO SHORE PROTECTION**

In addition to the structural protection, the Club builds temporary sand berms fronting the western and central portions of the Club facilities. The berms are built by moving sand from the lower portion of the beach up closer to the facilities. According to the terms of the permit, the berms can be installed 24 hours before a forecast storm surge and a high tide predicted to be above 6'5". The berm must be removed within 8 hours after the high tide has passed. The staff report, for CDP# 5-92-108-A3 (The initial application to do sand berming was submitted in 1992; #5-92-108-A3 was an application to continue to do sand berming until November 2000) stated that in 1998, the berms were built approximately 6 to 8 times during the rainy winter storm season. According to information, provided by Skelly Engineering (August 6, 2003) in support of the most recent application to continue berming, each berm is in place for about two or three days. During the winter months, the Club may berm sand about 15 times a season – as often as 3 or 4 times a month (Skelly Engineering, September 2, 2003). These temporary berms have been built for over a decade; they are a regular winter activity; and, they seem to provide a modest level of protection above what has been provided by the walls alone. Berming activities may be increasing (from 6 to 8 times in 1998 to about 15 times a season by 2003), or these two estimates may indicate that the need for berming activities has varied throughout the years.

### **SHORELINE CONDITIONS and SITE STABILITY**

The Skelly Report notes that the beach seaward of the Bel Air Bay Club has been relatively stable for a number of years. This relative stability appears to be due to the wave conditions in the area, the historic nourishment that has occurred through Santa Monica Bay and to the groin field constructed and maintained to protect Will Rogers State Beach. Through this combination of factors, there has been a fairly nice beach seaward of the Bel Air Bay Club and the Club has been relatively safe

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<sup>3</sup> The lease line in this location is the location of the new public/private boundary and therefore on the applicant's property.



from most storm events. However, since the early 1990's the Club has augmented its structural shore protection with an annual program of sand berming. And, even with this berming, there has been overtopping and site flooding perhaps 6 times a year (Skelly Engineers, December 16, 2002) at the central portion of the seawall, where there is the right angle.

Ms Ewing concludes that a seawall is necessary to protect existing structures on the west end of the site.

"While the beach has been "relatively stable" and has not suffered long-term erosion, the beach is not adequate to fully protect the Club facilities from routine combinations of storm surge and high tides. The beach exhibits rather significant short-term fluctuations in width and, fortunately, seems to be able to recover quickly from temporary erosion episodes. Thus, the main storm protection elements for the Bel Air Bay Club are the relatively stable beach, a temporary sand berming program that the Club undertakes annually, through a separate Coastal Development Permit, and the two seawalls.

The Staff coastal engineer indicated that due to adverse effects of seawalls on sand supply, (see below) that the applicants should agree that no future seawalls should be constructed on the eastern, down coast end of the project, where it is prospering to increase the size and number of cabañas.

#### **"EVALUATION OF IMPACTS FROM PROPOSED PROJECT**

'GARDEN/SAND WALL': The present project proposes to construct new two-story cabañas on the eastern portion of the property and to move a 220-foot long portion of the existing garden/sand wall up to 16 feet seaward to eliminate an angle in the wall. However, this wall is not a shore protection feature and the two-story cabañas on the eastern end of the property do not now require shore protection since the wide beach has protected this portion of the property historically. To date, this area has not been exposed to significant impacts from wave attack or flooding due to the protective beach that fronts this portion of the property. Based on historic trends, this portion of the site should be expected to remain relatively safe from wave attack and flooding into the future; however, future conditions do not always follow historic trends.

In the Santa Monica Bay area historically there have been anthropogenic activities (large nourishment projects, construction of beach stabilization structures, etc.) that have greatly influenced historic and current beach stability. The future response of the Santa Monica Bay beaches to on-going or accelerated rise in sea level, storms, or changes in wave climate may be very dependent upon changes in beach nourishment activities, changes in the effectiveness of beach stabilization structures, and others. It is well recognized that coastal wave energies, wave climate, water levels, storm intensity and storm duration may vary significantly over future decades. Added to the uncertainty of these natural variables, there are the uncertainties surrounding the various future human activities that have had so dominant a role in the recent dynamics of Santa Monica Bay. These all contribute

to the vagaries of coastal risk and difficult of using historic trends in beach stability to predict continued long-term beach stability.

The eastern portion of the site will be used for cabañas and tennis courts. Cabañas are normally small temporary or portable structures that could be relocated if they are threatened by erosion or flooding. The plans do not provide details about the two-story cabañas, but do show that their alignment will be straightened, with a slightly more seaward alignment, encroaching further onto the beach. The realignment of the Garden/Sand wall will follow the new cabaña alignment. All encroachment will be landward of the "Lease Line" (see above). While it is unlikely that the eastern portion of the project will require shoreline protection over the life of the project, as noted previously, there is a small chance that this area could be threatened in the future by waves and erosion. In the reviewed material, there is no commitment from the applicant to avoid future armoring for this area. If approval of the continued development of this portion of the project site is predicated upon the expectation that this area will not require shore protection, it would be reasonable to consider recommending some form of a no future seawall condition.

Ms Ewing indicates that a seawall is necessary to protect existing development in the central area of the project.

"CENTRAL SEAWALL: The present project proposes to make major changes to the Club, to maintain the western seawall, to reconstruct the central seawall, and to eliminate the 90-degree jog in the wall by extending that section of the seawall further seaward. The western and central portions of the Club facilities are in a location where they now need and will continue to need some form of protection from waves and flooding. The proposed new wall and realignment have been recommended by the applicant as a way to reduce scour, shorten the overall length of the wall, and reduce flooding and overtopping.

"The proposed rebuilt wall and wall realignment will reduce the overall length of seawall by approximately 32' feet, but will increase encroachment onto sand beach area by approximately 3,650 square feet. This encroachment is onto land identified on the demolition plans as being landward of the "Lease Line".

"The central portion of the Club is not now safe from flooding. Currently, the Club addresses the flooding risk with the existing seawall, the sand berms, and site drainage. The new wall will reduce but not stop this flood risk and the new development can expect to be exposed to some flooding over the life of the new development. There is no indication that this wall will alter the need for proper site drainage or the regular construction of sand berms. The sand berms are most effective for a short duration storm and become less effective for long duration or multiple storms. Some type of shoreline armoring is a necessary aspect of the new development for both flood protection and erosion protection. Without the proposed seawall reconstruction, the new facilities would face the same risk from flooding and erosion as the current facilities. For flood protection, an alternative to the seawall

would be to build to new or existing facilities on pilings or other elevated foundation elements that would remove them from the direct impact of flooding. The access roads, paths, and ancillary structures would also need to be protected from short-term erosion and flooding events and these structures are more difficult to elevate. Thus, it may not be possible for the Club to maintain its facilities if the proposed central wall were not allowed.

“Alternatives: The Skelly Engineering Letter Report (January 31, 2002) provides an examination of various alternatives to the proposed central seawall. The no project alternative would continue reliance on the existing seawall. This would perpetuate the problems that have been identified for this wall – specifically scour and overtopping. There would continue to be site flooding, and, as noted by Skelly Engineering, there is the risk that the wall could fail due to excessive scour of the foundation. If the building immediately landward of this wall is to be rebuilt, this development would not be safe from the risk of geologic or flooding hazards if it were to rely on the existing seawall.

“The Skelly Engineering Letter Report (January 31, 2002) considered two structural methods to protect the Club facilities and two “soft” alternatives. These were quarry stone shore protection, sheet pile seawall, beach nourishment and berming. The quarry stone revetment was determined to be able to provide adequate protection, but would have a footprint that would be approximately 33’ wider than the footprint for a vertical wall. The sheetpile wall was found to be a viable alternative, requiring a concrete cap down to the maximum scour depth to prevent cobble abrasion. Beach nourishment was analyzed within the regional context, where, despite the presence of groins on the up and down coast sides of this property, a protective beach would need to be 200’ wide and 1 mile long. Such a beach would cost approximately \$900,000 and would require re-nourishment. In addition, the Skelly Engineering Report (page 11) determined that even a 200-foot wide beach would not provide effective protection from storms similar to the 1982/83 or 1997/98 El Niños. The analysis did not determine the minimum beach that would be adequate for such events, and determined that beach nourishment “is not a viable alternative” due to the cost and short-term nature of protection. Finally, the Skelly Engineering Report determined that berming provides “protection for about one day of extreme waves but cannot withstand the storms similar to the 1982-83 or 1997-98 El Niño winters. (Page 12)”

“The analysis did not fully consider the possibility of beach nourishment within the groin compartment occupied by the Club. And, while beach nourishment will always have the risk that the beach can be removed by a series of storms, many projects do opt to use a wide beach as storm protection. In fact, that is the historic protection that the Club has used for the more eastern portion of the property. The western and central walls are now needed for protection from flooding and storm waves since the beach in this location is not wide enough to keep waves away from the Club facilities. There are drawbacks to using beach nourishment for shore protection, as noted by the Engineering Report; however, an active beach

nourishment program could be a useful complement to an option that would armor the back beach.

“The proposed vertical wall would have less encroachment on the beach than a revetment and should provide backshore protection that has a lower risk of flooding than the option of beach nourishment. Nevertheless, the vertical wall would not preclude the use of beach nourishment to enhance the protective properties of the wall, or as a future substitute for ongoing berming. Furthermore, the Engineering Analysis notes that this proposed vertical wall could be adversely impacted during major storm events<sup>4</sup>, so it is probable that the effectiveness of the proposed wall would be increased by efforts to provide for a protective beach seaward of the wall (a 200’ wide beach was the target identified in the Engineering Report). The option that would be most protective of the backshore development would be the proposed wall with beach nourishment. The proposed alternative of a vertical concrete wall, will provide a level of protection adequate to protect against waves and flooding from most storm events. 75 to 100 year recurrence events may result in some overtopping and flooding that must be determined to be an acceptable level of risk for the Club. The proposed alternative, combined with other flood management efforts (drainage, possible sand bagging, etc.) will assure minimal risk from flooding.

“The Skelly Engineering Letter Report (January 2002) provides design criteria for a proposed new wall, with a scour depth of –1.0’ MSL, and a wall height of about +18’ MSL with a windscreen or +14.5’. This proposed wall, with the windscreen, will be between 4.5’ and 6.75’ higher than the existing wall. Plans for the proposed new wall have not been provided. To provide suitable protection, the proposed seawall must comply with these design criteria. If this seawall is recommended for approval, a recommendation that the final plans be submitted to the Commission for review and approval would be appropriate.”

In considering a new wall, the Commission must consider both whether the wall can be approved, and then if it is approved, the impacts of a wall on coastal resources, such as sand supply. If a wall reduces sand supply to the adjacent down coast beach, public access to a coastal resource will be reduced. In fact, Los Angeles County has spent public funds to nourish Will Rogers State Beach.

“Impacts to Coastal Resources: The Skelly Engineering Letter Report (January 31, 2002) notes on page 10 that, “The western end of the club is separated from the adjacent public beach by a groin. The groin isolates the public beach from the Club’s seawall. ... The realigned seawall, is too far away from both the east end (about 420 feet) and the west end (about 455 feet) of the club to have any impact on the adjacent properties.” While the Club’s location does establish some isolation

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<sup>4</sup> The Engineering Report, page 13, states, “Waves and water levels with a 10 year recurrence interval will not overtop the proposed seawall and wind screen. Waves with a 50 year recurrence interval may slightly overtop the wall. Finally, waves with a 75 to 100 year recurrence interval, the design wave, will overtop the wall.”

from public areas, the upcoast groin is a public structure, and the beach seaward of the Lease Line is also public beach. Also, public trust lands may go inland as far as the seawall during times that the beach is eroded and the waves are hitting the seawall. Since there may be some uncertainty as to the limits of public trust lands, as well as uncertainties as to the physical extend to some of the known impacts from shoreline protection, the remaining discussion will cover impacts to the shoreline seaward of the seawall.

“The existing wall has several adverse impacts on the shoreline and the new wall will continue these impacts. Both walls encroach onto the beach and are in an area subject to occasional wave action. While the walls are only occasionally exposed to wave attack, there are times when the material landward of the seawall would have become active beach material, if the wall was not there. This supply of beach sand, landward of the seawall, has been greatly modified with the development of the Club facilities; however, historically this area would have served as a stockpile or reserve of sand that would have become active beach material during storms. Under more calm conditions, sand would return to the landward area through wave and wind transport. At present, the seawall prevents the removal of whatever sand remains landward of the wall and likewise, the wall and garden/sand wall minimize the amount of new sand stored inland of the active beach. While this can have significant consequences on an eroding shoreline, the impacts are less significant and more temporary on a relatively stable shoreline.

“The existing wall is subject to wave attack frequently enough in the winter season that it is overtopped about 7 times a year. The applicant has not provided information on the frequency of waves hitting the wall without causing overtopping, or the frequency of wave run-up coming to the base of the wall, however, this would likely exceed the frequency of overtopping. Even with the frequent construction of sand berms (based on information provided by the applicant), the seawall is exposed to rather frequent wave attack, and about 7 times a year, it is exposed to waves with sufficient energy to overtop the wall.

“The new alignment may reduce the frequency of overtopping and flooding landward of the wall, but the seaward encroachment of the wall will result in a comparable or greater frequency of wave attack. This could have significant impact on beach use during times when the beach is narrow and there is little, if any, dry beach seaward of the wall. One area that may provide a temporary point of safe access would be the temporary berm. Since the berm is built using sand that is taken from seaward of the Lease Line and moved to or close to the Lease Line, it would seem that the public should have use of this bermed sand for safe access, regardless of its location relative to the Lease Line. In addition, the opaque wall that has been erected on the upcoast groin could be a barrier to lateral access during these times of the year when there is little if any dry beach seaward of the proposed new wall. Removal of that barrier would allow for a safer transition from one side of the groin to the other, and not force access to move seaward or further off the sand and into the surf and up-rush zone.

“Scour is the removal of beach material from the base of a cliff or seawall due to wave action. When waves impact on the hard surface, some of the energy from the wave will be absorbed by the surface, but most of it will be reflected back seaward. If this reflected energy is directed downward, either by wall design or by interaction with incoming waves, the wave energy can disturb the material at the base of the wall and create erosive or scour trenches in front of and down coast of the hard surface. This phenomenon has been recognized for many years. A 1976 publication entitled, “Shore Protection in California (Department of Navigation and Ocean Development, 1976) stated that:

*While seawalls may protect the upland, they do not hold or protect the beach that is the greatest asset of shorefront property. In some cases, the seawall may be detrimental to the beach in that the downward forces of water created by the waves striking the wall rapidly remove sand from the beach.*

“This observation was stated again more recently by Robert G. Dean in “Coastal Sediment Processes: Toward Engineering Solutions” (Coastal Sediments ‘87):

*“Armoring can cause localized additional storm scour, both in front of and at the ends of the armoring... Under normal wave and tide conditions, armoring can contribute to the downdrift deficit of sediment through decreasing the supply on an eroding coast and interruption of supply if the armoring projects onto the active littoral zone.*

*If armoring is deemed warranted to protect a threatened structure and if rational assessment concludes that installation of the armoring would adversely affect the shoreline, mitigation in the form of periodic additions of beach quality sediment should be considered.”*

“If the scoured beach material is sand or cobble, it can be pulled away from the beach by the waves and carried off shore or down coast. It can also be pulled along by waves and driven against the bluff, seawall or bulkhead, causing damage to the vertical surface. The material removed by scour normally remains in the littoral system and following a storm event, scour trenches often fill in with new sand carried shoreward by more gentle waves.

“Scour is often a temporary problem, and is difficult to quantify since it is so dependent upon specific wave conditions, and type of beach material. A four-year study of seawall impacts along the Central California Coast (Griggs, Tait, and Scott, 1990), found that the beach recovered independently of the seawall when the low-energy wave conditions of summer returned. Even though it is not normally quantified, scour can be a serious concern, and there are no known ways to correct the erosive trenches which can be created by scour, short of either physically refilling them with beach material or waiting for waves to readjust the beach profile and refill the trench naturally.

“The wall realignment will eliminate the scour hole that developed in the corner of the wall, but the realignment will not alter the scour or end effects that result from the existing wall along the straight portion. All adverse impacts to the beach will continue, or be moved further seaward – due to the proposed seaward realignment of the seawall. The effects of scour will be temporary and most of the effects will occur between the wall and the Lease Line. Impacts from scour seaward of the Lease Line would be slight.

“End effects are the changes to the beach up and downcoast of a seawall. One of the more common end effects comes from the reflection of waves off the seawall in such a way that they add to the wave energy impacting the unprotected coastal areas. Wave refraction and diffraction around the end of a seawall also contributes to increases erosion to the adjacent area. In a report on the literature on the interaction of seawalls and beaches, entitled “Effects of Seawalls on the Beach” (Kraus, 1988), one of the key conclusions was:

*“At the present time, three mechanisms can be firmly identified by which seawalls may contribute to erosion at the coast. ... The third mechanism is flanking i.e. increased local erosion at the ends of walls.”*

“A report of the long-term study of seawalls along the rather sand-rich portions of northern Monterey County, Griggs and Tait found that seawalls could cause a “loss of beach up to 150 m. downcoast from the seawalls due to reflection from end of structure.” (Griggs and Tait, 1988) In a follow-up study, they concluded that the “most prominent example of the lasting impacts of seawalls on the shore is the creation of end scour” which “exposes the back beach, bluff, or dune areas to higher swash energies and wave action” (Griggs, Tait, and Scott, 1990).

“A laboratory study by researchers at Oregon State University (McDougal, et al., 1987) found:

*“Results to date indicate that erosion at the ends of seawalls increases as the structure length increases. It was observed in both the experimental results and the field data of Walton and Sensabaugh (1978) that the depth of excess erosion is approximately 10% of the structure length. The laboratory data also revealed that the along-coast length of excess erosion at each end of the structure is approximately 70% of the structure length.”*

“Like scour, it is difficult to quantify the exact loss of material due to end effects. The impacts are often temporary and likely to be greatest during and following storm events. A consequence of removing the right angle from the central seawall, however, is that it will result in an overall increase in the along-coast length of straight wall and possibly increase the end effects at the overall wall terminus – adjacent to the upcoast groin. Based on the research by Walton and Sensabaugh, this longer section of wall could extend the upcoast length where end effects could

be identified. While the study by Walton and Sensabaugh use the distance over which the impact can be observed as the key measure, the corollary to this may be that the increase in wall length results in greater the build-up of wave forces that can be translated along the structure. If this is correct, then the upcoast groin would be exposed to greater end effects as the length of straight seawall increases. Since the groin is a perpendicular structure immediately upcoast of the seawall, it would be the key feature impacts by any change in end effects.

“The beach immediately downcoast of the groin and adjacent to the existing seawall is one of the locations that will be most adversely impacted by the temporary impacts from scour and end effects. This area is impacted now by scour and end effects and the impacts could increase slightly when the wall realignment increases the length of straight wall. The most likely changes to this area of beach would be to development of transient scour holes and scour trenches either along the wall or along the base of the groin. These impacts are unfortunate components of linear shore protection and the only possible mitigation is to fill these areas with sand as they develop. Such efforts during a series of storms could prove to be futile since further scour and end effects would quickly remove the new fill material. Fill following a storm event can be added, but these scour holes and trenches are often the first areas of the beach to recover naturally following a storm. (Seawalls have many of the same characteristics of vertical bluffs; scour trenches develop seaward of bluffs and then disappear as sand is redistributed across the beach area. This restoration process has been observed along natural bluffs as well as constructed seawalls.) These scour holes can create hazardous conditions for beach access during and after storm events. Along the groin, this hazard is increased since pedestrians would not be able to see the conditions on the other side of the groin until they have climbed onto the groin and walked around the opaque fence. Since filling the scour holes following every storm may not be practicable, it could be reasonable to make this temporary hazard more obvious to beach users. If the opaque fence on top of the groin were removed, it could give pedestrians a better opportunity to view the beach and determine whether safe access is possible.

“The proposed new seawall alignment will encroach further onto the beach than the current wall, removing approximately 3,650 sq. ft. of sand beach from public use. The analysis of alternatives did not consider any modifications to the proposed Club facilities that would eliminate or substantially reduce either the need for shoreline protection or the need to “smooth” the alignment through a landward relocation of the seawall. The proposed new Club development seems to be the only limitation to a more landward seawall alignment. The Engineering Report notes that the 90-degree angle in the wall is a significant problem that needs to be corrected to reduce the adverse impacts from scour and overtopping. The Engineering Report did not identify any existing physical constraints to a more linear alignment that would preclude a landward relocation for the new wall. This would likely require the landward relocation of the Club facilities and possibly a small reduction in parking, walkways, patio area, etc. There is nothing in the provided material that indicates



that a landward realignment of the seawall to avoid seaward encroachment would necessitate major structural changes to the proposed new club facilities.

However, by limiting the redevelopment of the seawall to the replacement of the existing wall in its current alignment, the current scouring and flooding problems created by the 90-degree angle will still persist. To address this particular issue the applicant will be given the alternative of realigning the existing seawall by relocating the seawall further landward to straighten out the existing alignment and eliminate the 90-degree angle. Since the applicant is proposing to demolish all existing development located in the central area, the applicant can redesign the proposed project and realign the existing seawall that currently protrudes 38 to 40 feet further seaward than the western seawall, and align the seawall with the garden wall located in the eastern portion of the property forming one straight contiguous wall. By relocating the existing seawall further inland, the wall will have less exposure to wave impacts and the area will be available as a source of sand for shoreline processes. This landward realignment of the existing seawall would remove an approximately 3,500 square foot building area from the applicant's proposed development area resulting in the loss of approximately 1,044 square feet of proposed interior space, reducing the proposed total new square footage from 40,709 square feet to 39,665 square feet for a total interior building area of 60,084 square feet (existing and new). This would also reduce the proposed new outdoor patio and terrace area by approximately 1,980 square feet, from 5,200 square feet to approximately 3,200 square feet, resulting in a net total of 5,968 square feet (existing and new) of patio and terrace area for the redeveloped facility. Therefore, this alternative will address the applicant's concern with the current alignment of the seawall and still provide the applicant with a viable project and reduce impacts to shoreline processes and minimize hazards associated with building on the beach.

Limiting the proposed development to no further seaward encroachment will provide the applicant a buildable area for a viable project that can be found consistent with Section 30235 and 30253 of the Coastal Act. Therefore, Special Condition No. 1 requires the applicant to submit revised plans showing one of the following: (1) All redevelopment of the facility shall be located landward of the current alignment of the existing seawall and in the event the applicant chooses to reconstruct and replace the central 370 foot section of the existing seawall, the new seawall shall be located in the same location and alignment as the existing, or; (2) realign the 370 foot central wall section by relocating the existing wall landward so that the wall forms a contiguous straight line with the western portion of the seawall and garden wall located to the east.

Based on this analysis the Commission concludes that there is a reasonable case to allow reconstruction of the wall in its existing location, but due to effects on sand supply and increase potential with flooding and structural damage, the wall should not be allowed to be relocated seaward. Moreover, it is apparent that a side effect, if not the purpose, of the seaward relocation of the wall would be the construction of a new structure that would be dependent on the wall, which is inconsistent with Section 30235. Part of the new structure would be located on sand that was previously part of the sand supply that is shared with downcoast public beaches.

There is evidence that the new cabañas can be safely reconstructed in their present location. The Commission finds that under the constraints of Section 30235, it cannot approve a long line of new cabañas if they required a seawall. The Commission also finds that the proposed development can be safely constructed if protected by a seawall reconstructed in its present location. This seawall can be approved because it is necessary to protect the 40% of the development that will continue to exist on the site. Therefore, the Commission approves the reconstructed seawall in its present location, or if straightening is necessary, as an extension the existing wall, and requires that no subsequent shoreline protection be allowed to protect the new development. However, as in the case of the cabañas, the Commission cannot approve the new development behind the existing wall if a new or relocated seawall were necessary for its protection. For the reasons above, the Commission also imposes a special condition requiring the applicant to agree, as a condition of an approval, to construct no future shoreline protective devices. As conditioned, the development is consistent with section 30235 and 30253 of the Coastal Act.

**E. Scenic Resources – Development Adjacent to Parks and Recreation Facilities**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas.*

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

The Coastal Act protects the scenic and visual quality of coastal areas and requires that projects be sited and designed to protect the surrounding coastal resources. Furthermore, Pacific Coast Highway (PCH) is listed as a Designated Scenic Highway on the City of Los Angeles General Plan Scenic Highways Map.

The proposed project is located seaward of the first public road (PCH), on the sandy beach and adjacent to Will Rodgers State Beach. According to the Draft Initial Study (February 16, 2000) the facility is located on a 5.74 acre irregularly shaped site with approximately 1,200 feet of frontage along Pacific Coast Highway.

The existing facility consists of 51,120 square feet of buildings, patio areas, recreational courts, and surface parking. The buildings are one and two stories, and range from 14'-6" to 29'-7" in height. The eastern portion of the property is developed with seven at-grade paddle tennis courts, and a row of beach cabañas lined along the seaward side of the courts and landward of the existing garden wall. The cabañas, at 14'-6" feet in height, as measured from existing grade, are the tallest structures in the eastern portion of the property. To the west of the courts is the Club's only two-story structure, measuring 29'-7", as measured from existing grade. To the west of this two-story structure are one-story structures extending to a height of approximately 14 to 21 feet, as measured from existing grade.

Existing fencing with opaque screening, a property-line hedge, and existing buildings on site obstruct views of the beach area and ocean from PCH. The fence is a chain link fence, but the Club has inserted plastic strips into the openings in the mesh. The Club's elevation ranges from approximately 8 to 10 feet below PCH (elevation 20 feet). The existing hedge and fencing are within Caltrans right-of-way. Current coastal views from PCH are limited to the opening of the 36-foot wide driveway. Views offered from this location are generally a narrow band of blue water. Furthermore, because of the narrow width of the driveway and motorists' speed of travel, motorists' views across the site are of limited duration.

From the beach, the facility is visible for the entire length of the property. Views from the beach looking landward (north) include the Club facility and bluffs landward of PCH. The bluffs immediately behind the Club property are developed with single-family residences and the upper club facility, which are visible from the beach. From the bluffs, views of the existing facility are available only from limited to areas along the residential streets north and northeast of the facility.

The proposed project includes buildings that will vary from 12 to 28 feet above grade, which varies from elevation 8 to 12 feet. The new main building will include a tower element that occupies an area of approximately 100 square feet, and extends to a height of 37 feet above grade. Two level cabañas, measuring to a height of approximately 20 feet, will be located to the east of the main building. The existing 14-foot high cabañas to the west of the main building will remain.

According to the plans and Draft Initial Study, the new two-story elements of the project are limited to the central portion of the main facility and the cabañas to the east. The maximum height of the pitched roof of the central portion of the main facility is 28 feet in height, and steps down to 21.5 and then to 18 feet.

While the proposed project would expand the facility by approximately 10,000 square feet, the building footprint of the proposed project is located primarily within the existing building footprint, with some encroachment further seaward along with the proposed realignment of the seawall and garden wall.

Currently, views from PCH are obstructed and blocked by the existing development on the applicant's property as well as six foot fence and hedge that are located on Caltrans property. Views into and across the project site would remain available from the public beaches east and west of the property. Although proposed improvements would be visible from the beach area to the east and west, and directly in front of the Club, given the distance the facility is setback from the property line and the developed nature of the bluffs behind the facility, the proposed improvements would not have a significant impact on views of the bluffs from the beach.

As stated, coastal views from PCH are limited by existing development and vegetation, which allow views only at the driveway opening. The main views through the driveway opening are over the western portion of the site and the existing cabañas. There are also limited blue water views over the existing main building, which are partially obstructed by the buildings' roof top structures, such as, air condition ducts and vents. These views will be obstructed by the increased height of the proposed buildings located directly south (seaward) of the realigned driveway.

To mitigate the loss of views along PCH, the applicant has proposed to increase the views along the western portion of the site through the trimming and maintenance of the vegetation along PCH at a height of no greater than three feet and to remove any opaque screening on the fence. Since the existing 14-foot high cabañas along the western portion of the site will not be altered, portions of the ocean and horizon above the cabañas would be visible from PCH if the vegetation along the roadway did not obstruct the views. Maintaining vegetation at three feet will keep vegetation below the roofline of the cabañas and below the view line from PCH. The proposed view corridor over the western portion of the site will open up the views over the cabañas and create an approximately 600-foot view corridor over the Club's facilities for motorists traveling on PCH. Although the existing 6 foot high chain-link fence will remain, the fence, with the opaque screening removed, will allow views through the fence and will not significantly obstruct views.

Opponents of the project, Martin J. Murphy and Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association, contend that the fence and vegetation are located on public property and obstruct scenic coastal views to and along the coastline. The City stated in their findings, "The Zoning Administrator has reviewed, in the case file, a survey conducted by the State Department of Transportation, Engineering Services Branch, on December 13, 2000. The survey shows that all the fences along the Club/Caltrans common property line are on State Lands, except for some fences (chain-link and wooden) in the eastern 200 feet of the site, which are setback from PCH". While it is possible that the fences and landscaping, were constructed and planted by the Bel Air Bay Club, there is no evidence to indicate when the vegetation and fencing were installed. However, the applicant has indicated that Caltrans has conceptually approved the trimming of vegetation along PCH and in staff discussions with Caltrans, they have indicated that they have no objection to trimming the vegetation to create additional views along their Right-of-way. The applicant has proposed to remove any screening on the fence and lower the vegetation on the western portion of the site along PCH, but proposes to only trim and maintain the vegetation at a height of 6 feet along the eastern portion of the site along

PCH. However, if the applicant lowered and maintained the vegetation below the sight line from PCH, and removed or lowered all opaque coverings from the sightline along more of the property, more coastal views could be restored. The Commission finds that if visual barriers were lowered to three feet, from the eastern portion of the site approximately 240 feet, to the eastern edge of the first building, views for southbound motorists over the property can be further increased (see Exhibit No. 11). Eliminating these visual barriers would mitigate the impacts of the increased height of proposed development on views. Even if motorists would not see the shoreline due to the angle of view and speed of traffic, there would be less of a "tunnel effect" created by the mass of vegetation along PCH. Therefore, in addition to the applicant's offer to trim and maintain the vegetation along the northwestern portion of the site and remove all opaque fence covering from the sightline, the applicant shall also trim and maintain the vegetation along the northeastern portion of the site to create an additional view corridor.

As noted, a six-foot high cement fence at the western property line, extending perpendicularly from PCH toward the rock groin, obstructs views along the beach. The State Lands Commission determined that a portion of the cement wall and fence atop the wall are located on State Lands. State Lands required the Club to remove the fence and wall that encroaches onto State Lands. The Commission similarly finds that the fence impedes visual and physical access to the coastline and must be removed as a condition of this permit.

The Commission finds that opening the fence and maintaining the vegetation at a height of no higher than 3 feet along highway property line, will improve coastal views from PCH. The Commission finds that if the applicant decides to trim, rather than remove the vegetation to achieve this, then it must also agree to regularly maintain the hedge at the agreed upon height. Lowering these visual barriers will enhance views and will mitigate view impacts attributable to the increased height of the structures. Therefore the Commission finds that as conditioned, the proposed project will be consistent with Sections 30251 and 30240 (b) of the Coastal Act.

## **F. WATER QUALITY**

The standard of review for development proposed in and adjacent to coastal waters is the Chapter 3 policies of the Coastal Act, including the following water quality policies. Sections 30230, 30231 and 30232 of the Coastal Act require the protection of biological productivity, public recreation, and marine resources.

Section 30230 of the Coastal Act states, in pertinent part:

*Marine resources shall be maintained, enhanced, and where feasible, restored.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Section 30232 of the Coastal Act states, in pertinent part:

*Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials.*

## **1. Construction Impacts to Water Quality**

Storage or placement of construction materials, debris, or waste in a location subject to erosion and dispersion or which may be discharged into coastal water via rain, surf, or wind would result in adverse impacts upon the marine environment that would reduce the biological productivity of coastal waters. For instance, construction debris entering coastal waters may cover and displace soft bottom habitat. In addition, the use of machinery in coastal waters not designed for such use may result in the release of lubricants or oils that are toxic to marine life. Sediment discharged into coastal waters may cause turbidity, which can shade and reduce the productivity of foraging avian and marine species' ability to see food in the water column. Best Management Practices will be implemented to ensure that secondary construction-related impacts to biological resources are minimized during construction. Soil erosion can occur naturally, and may be accelerated during grading and construction when the area cover is removed and bare soil is disturbed. Precautions will be taken to assure that construction runoff and storm water run-off is filtered prior to leaving the site. The measures proposed adequately deal with water quality impacts associated with construction activities. However, in order to verify that the proposed measures listed in the applicant's plans are followed, The Commission imposes Special Condition No. 8, which requires submittal of a Final Runoff and Erosion Control Plan. The Commission finds the proposed project, as conditioned, is consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

## **2. Post Construction Impacts to Water Quality**

The proposed development will result in urban runoff entering Santa Monica Bay. Pollutants such as sediments or toxic substances, such as grease, motor oil, heavy metals, hydrocarbons, pesticides and fertilizers are often contained within urban runoff entering the Bay. In this case, the site drains new buildings, a parking lot, walkways and landscaped areas. Therefore, the primary post-construction water quality concerns associated with the proposed project include sediments, trash and debris, grease, motor oil, heavy metals, hydrocarbons, pesticides and fertilizer.

The proposed development would result in the discharge of storm water into the Bay. As such, the amount of pollutants carried through the system would increase proportionally. Therefore, the project has the potential to affect the water quality of the coastal waters. Finally the proposed project includes an 8,841 restaurants and bar. Restaurants can be major sources of pollution if discharges of grease, wastewater and wash down water are allowed to enter sanitary sewers or storm drains.

In order to deal with these post construction water quality impacts, the applicant has submitted a Runoff Control *Plan* prepared by their project engineer. The project site is located within and adjacent to the beach. Contaminants such as oil and grease, fertilizers, pesticides, and other toxic chemicals typically accumulate on ground surfaces and are then washed into storm drains and waterways by irrigation or rainfall. In order to reduce the level of contaminants leaving the property, the project has been designed to include a stormwater detention basin and water filtration system. Drainage from the “parking areas” will be directed to a series of storage/Infiltration systems that will filter the water and provide storage during rain events.

In order to address potential impacts from the reconstructed restaurant the Commission requires that the restaurant include grease traps and that such grease traps be regularly maintained so that the material does not enter the sewer system. Moreover, since plastics and Styrofoam are a major source of debris in the oceans, the Commission requires that the applicant agree not to use Styrofoam and plastics in take out food.

In order to protect water quality impacts associated with parking lot runoff, the BMPs implemented must be designed specifically to minimize and/or treat these pollutants. There will be no significant long-term adverse effects of the siting of the facilities and the associated infrastructure on the adjacent sensitive biological habitats and resources. Long-term effects on water quality are anticipated to be beneficial with the operation of the proposed water quality management system. Currently, there is no filtration or treatment of runoff from the site. If the applicant conforms to the suggested special conditions, the proposed system will discharge low volumes of less toxic waters to the ocean compared to existing conditions. In order to ensure that water quality is adequately protected, Special Condition No. 8 has been imposed, which requires submittal and implementation of a Final Water Quality Management Plan. As conditioned, the proposed project will be consistent with Sections 30230, 30231 and 30232 of the Coastal Act.

#### **G. Unpermitted Development**

Opponents of the project, Martin J. Murphy and Harold Tuchyner and Robert Locker, representing the Pacific Palisades Residents Association, have alleged that certain aspects of the existing project were constructed without benefit of a coastal development permit and continue to be inconsistent with the Coastal Act.

- 1) Fence and Hedge along Pacific Coast Highway Property Line. The opponents contend that the Club installed the fence and vegetation along Pacific Coast Highway, and that the fence and hedge are located on State Highway property.

City and coastal staff have concluded that the fence does not represent a violation. All the fences along the Club/Caltrans common property line are on Caltrans property, except for some fences (chain-link and wooden) in the eastern 200 feet of the site, which are setback from PCH. The reason the Club PCH boundary fence is located on state land is that the boundary between the Highway and the bluff changed when Caltrans relocated its right-of-way following a major 1980's landslide on the hillside inland of PCH. At that time PCH travel lanes were relocated closer to the Club, leaving inadequate shoulder on the eastern end of the Club, but not requiring removal of the fence. There is photographic evidence the fence and hedge existed before 1972. Staff determined that there was no violation.

- 2) West, (Upcoast) Property Line Fence and Revetment. There is a revetment on the western property line topped by a wooden fence. The fence and revetment block lateral access along the beach. The revetment, although installed by the original developers (Los Angeles Mountain Park Company, see Section B) is located on the adjacent Los Angeles County beach property. The fence is located on the applicant's property on its inland end, and from there, meanders onto the County beach and state property. The fence and wall were constructed prior to 1972. While they may have expanded after that year, the dimensions and materials of the fence in 1972 and 1997 were not possible to ascertain. The seaward ends of the up- coast property line fence was determined to be located on state lands in negotiations for the 2003 Settlement with the State Lands Commission. The Settlement requires the Club to draft plans and negotiate with adjoining (public) property owners to remove or provide access over the inland part of the groin that obstructs lateral access and to remove parts of the fences that are located on state and County land. A coastal development permit and an agreement with the City and County of Los Angeles are required to partially demolish the fence and remove part of the groin or construct a way over it. The Club has had initial discussions with the City, (the owner of the groin) but has not yet requested a coastal development permit for this activity. Special condition no. 6 addresses this issue.
- 3) East (Down-Coast) Property Line Fence. The applicant installed the fence prior to 1972. While the fence may have expanded after that year, the dimensions and materials of the fences in 1972 and 1997 were not possible to ascertain from aerial photographs. The seaward ends of the down- coast property line fence was determined to be located on state lands in negotiations for the 2003 Settlement with the State Lands Commission. The Settlement requires the Club to remove the parts of the fence that are located on State Land; a coastal development permit is required to partially demolish the fence. The Club has removed parts of the downcoast fence; but has not yet requested a coastal development permit for this activity.



- 4) Thirty-two Shade Structures/Permanent Umbrellas: Approximately 32 umbrella/single-pole shade structures have been installed on the sandy beach. In 1972 there are no development seaward of the seawall and garden wall. In 1975, several apparently movable beach umbrellas were visible on the beach. In 2002 aerial photographs, approximately 32 uniform umbrella structures appear to have been semi-permanently installed/anchored in a designated sitting area on the sandy beach. There is no evidence that the applicant sought a coastal development permit for installation of the shade structures. The shade structures/permanent umbrellas are located on the sandy beach seaward of the applicant's seawall and garden wall, within the applicant's property as identified in the 2003 Settlement with the State Lands Commission.
- 5) Six Palm Trees with Cement Planters On Sandy Beach: In the 2002 California Coastline aerial photographs, there are 6 palm trees (2 groups of 3). The palm trees and their concrete planters are located on the sandy beach seaward of the applicant's seawall and garden wall. The trees are located within the applicant's property as identified in the 2003 Settlement with the State Lands Commission. The palm trees and planters are not evident in the 1972 or 1986 aerial. There is no evidence that the applicant sought a coastal development permit for this development.
- 6) Volleyball Nets/Courts: One court existed on the sandy beach in 1972. The 2002 aerial photograph showed four courts. Three of the courts were removed between 2002 and the present as a requirement of the 2003 Settlement with the State Lands Commission because they are located on State property. The remaining court is in the location of the court observed in the 1972 aerial photograph. There is no evidence that the applicant has sought a coastal development permit for removal or relocation of the volleyball courts.
- 7) Relocation of boat storage area: The 2003 Settlement with the State Lands Commission required relocation of the boat storage area to leased land. While the boat (catamaran) storage area appears in the 1972 aerial photograph and is regarded as not requiring an after-the-fact permit, the relocation requires a coastal development permit. There is no evidence that the applicant sought a coastal development permit for relocation of the boat storage area.
- 8) Wooden walkway on beach. There is a wooden walkway across the beach toward the surfline located seaward of the main structure clubhouse. It does not appear in the 1972 aerial. There is no evidence that the applicant sought a coastal permit for this development.

As part of this permit the applicant has requested approval for installation of the volleyball courts within the recreation lease area, but did not request approval of other structures located seaward of the seawall.

As part of this approval request the Commission approves development inside the boundary of the garden wall and the seawall—on the applicant's own property. The Commission also approves the volleyball court located on the private recreation lease, and requires removal of a portion of the walls in the western portion of the property that encroaches onto State Lands. The Commission requires the applicant to remove or alter part of a groin immediately west of and adjacent to its property that obstructs lateral access [See Special Condition No. 6A(3)].

The Commission has separately addressed view and access issues resulting from the relocation of the highway and the height and design of the fence and hedge (Special Conditions No. 10). The applicant has not submitted an application to install the shade structures, the walkway or the palm trees on the beach. The Commission will consider the issues raised by this unpermitted development when the applicant submits an application that describes it and its effects on views, public beach access and coastal processes to the City and the Commission.

Commission staff is continuing an investigation into this and other reported development that may be unpermitted. Consideration of this application has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred. The Commission will act on this application without prejudice.

## **H. Local Coastal Program**

Section 30604 (a) of the Coastal Act states that:

*Prior to certification of the Local Coastal Program, a Coastal Development Permit shall be issued if the issuing agency, or the Commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200).*

In 1978, the Commission approved a work program for the preparation of Local Coastal Programs in a number of distinct neighborhoods (segments) in the City of Los Angeles. In the Pacific Palisades, issues identified included public recreation, preservation of mountain and hillside lands, grading and geologic stability. The continued use of Temescal Canyon as a recreation area was also an issue, because at that time the Canyon was in private hands.

The City has submitted five Land Use Plans for Commission review and the Commission has certified two (Playa Vista and San Pedro). However, the City has not prepared a Land Use Plan for Pacific Palisades. In the early seventies, a general plan update for the Pacific Palisades had just been completed. When the City began the LUP process, in 1978, with the exception of two tracts (a 1200-acre tract of land and an adjacent approximately 300-acre tract), which were then undergoing subdivision approval, all private lands in the

community were subdivided and built out. The Commission's approval of those tracts in 1980 meant that no major planning decision remained in the Pacific Palisades. The tracts were A-381-78 (Headlands) and A-390-78 (AMH). Consequently, the City concentrated its efforts on communities that were rapidly changing and subject to development pressure and controversy, such as Venice, Airport Dunes, Playa Vista, San Pedro, and Playa del Rey.

As conditioned, to address the impacts the proposed development will have on public access and coastal views, approval of the proposed development will not prejudice the City's ability to prepare a certifiable Local Coastal Program. The Commission, therefore, finds that the proposed project is consistent with the provisions of Section 30604 (a) of the Coastal Act.

## **I. California Environmental Quality Act**

Section 13096 of the California Code of Regulations requires Commission approval of a Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The Commission considered denial of the project. Denial of the project would result in no change in the seawall of the project, and no change in the structures. The Club would continue to be subject to the requirements of the settlement with the State Lands Commission. The unsafe entry from Pacific Coast Highway would not be repaired, and this would perpetuate the problems that have been identified on the seaward side of the seawall – specifically scour and overtopping. There would continue to be site flooding, and, as noted by Skelly Engineering, there is the risk that the wall could fail due to excessive scour of the foundation. If the building immediately landward of this wall were to be rebuilt, this development would not be safe from the risk of geologic or flooding hazards if it were to rely on the existing seawall. However, with the demolition of 60% of the development, including the development directly behind the area of overtopping and flooding, the applicant can redesign the project to set back the development further inland and away from the impacted area.

The Commission considered that an alternative to the proposed seawall realignment would be to build the new facilities on pilings or other elevated foundation elements that would remove them from the direct impact of flooding. However, the access road, paths, and ancillary structures would also need to be protected from short-term erosion and flooding events and these structures are more difficult to elevate. Thus, it may not be possible for the Club to maintain its facilities if the proposed central wall were not allowed.

Another alternative the Commission considered was the approval of the project as submitted. This change would result in enclosure of significant sand area, (5,400 sq. ft.)

and removal of that sand from the sand supply, which would have a potential long-term effect on the down coast public beaches and on the width of the public beach seaward of the development, and would place development closer to the water, which would subject the develop to further wave impacts and damage. Therefore, the Commission finds that the alternative that would cause the least amount of adverse impacts would be to limit the development to no further seaward encroachment.

As conditioned, the proposed permit will not cause any significant adverse impacts on the environment. Therefore, the Commission finds that there are no feasible alternatives or additional mitigation measures available which would substantially lessen any significant adverse impact which the activity would have on the environment, and that the project can be found consistent with the requirements of the Coastal Act to conform to CEQA.